

**THE PRESIDENT'S FISCAL YEAR 2015 BUDGET:
ADMINISTRATION PRIORITIES FOR THE U.S.
ARMY CORPS OF ENGINEERS**

(113-62)

HEARING
BEFORE THE
SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT
OF THE
COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

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March 28, 2014

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SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Water Resources and Environment
FROM: Staff, Subcommittee on Water Resources and Environment
RE: Hearing on "A Review of the President's Fiscal Year 2015 Budget Request for the United States Army Corps of Engineers"

PURPOSE

On Wednesday, April 2, 2014, at 10:00 a.m. in 2167 Rayburn House Office Building the Subcommittee on Water Resources and Environment will meet to receive testimony from the Army Corps of Engineers (Corps) and the Assistant Secretary of the Army for Civil Works on the Corps' proposed budget and program priorities for fiscal year (FY) 2015.

This hearing is intended to provide Members with an opportunity to review the FY 2015 budget request for the Corps, as well as Administration priorities for consideration in the Subcommittee's legislative and oversight agenda for the Second Session of the 113th Congress.

BACKGROUND

General

The Corps provides water resources development projects for the Nation, usually through cost-sharing partnerships with non-federal sponsors. Activities include navigation, flood damage reduction, shoreline protection, hydropower, dam safety, water supply, recreation, environmental restoration and protection, and disaster response and recovery. The appropriation request in the Administration's FY 2015 budget submittal for the Corps of Engineers is \$4.533 billion. This represents a reduction of 17 percent from the enacted FY 2014 amount of \$5.467 billion.

There is a proposed reduction for most of the major accounts that fund Corps projects and activities. Major accounts and initiatives are described below.

Investigations

The President's budget requests \$80 million for the Investigations account. This is \$45 million less than the FY 2014 appropriations of \$125 million. These funds are used for the study of potential projects related to river and harbor navigation, flood damage reduction, shore protection, environmental restoration, and related purposes. They also cover the restudy of authorized projects, miscellaneous investigations, and plans and specifications of projects prior to construction. Under this proposed budget, while 10 new studies are funded, the focus is on completing existing studies. Under this proposed budget, 28 ongoing studies are estimated to be completed.

Construction

The President's budget requests \$1.125 billion for the Construction account. This is \$531 million less than the FY 2014 appropriations of \$1.656 billion. These funds are used for the construction of river and harbor, flood damage reduction, shore protection, environmental restoration, and related projects specifically authorized or made available for selection by law. The budget proposes one new construction start and funds for nine construction completions. Generally, the reduced construction budget gives priority to completing ongoing projects with a remaining benefit-cost ratio greater than 1.0. Continuing ongoing projects with a benefit-cost ratio between 2.5 and 1.0 receive some level of funding.

Operation and Maintenance

The President requests \$2.6 billion for expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related projects. This is \$261 million less than the FY 2014 appropriations of \$2.861 billion.

The constrained budget for operation and maintenance in the past few fiscal years is beginning to affect the navigability of certain waterways, availability of recreation, and other critical services. Already long-deferred maintenance continues to be delayed. For example, recently, parts of the Lower Mississippi River have been closed to commercial navigation due to lack of maintenance dredging. The President's budget request for operation and maintenance in FY 2015, particularly by not fully utilizing the Harbor Maintenance Trust Fund, will continue to exacerbate this situation. Underfunding the Operations and Maintenance account complicates effective planning and creates inefficiencies.

Regulatory Program

The President's budget requests \$200 million for the regulatory program. This is the same as the FY 2014 appropriations. The funding provides for costs incurred to administer laws pertaining to regulation of activities affecting United States waters, including wetlands, in accordance with the Rivers and Harbors Act of 1899, the Clean Water Act, and the Marine Protection, Research, and Sanctuaries Act of 1972.

Formerly Utilized Sites Remedial Action Program (FUSRAP)

The President's budget requests \$100 million for FUSRAP for FY 2015. This is a \$3 million dollar reduction from the enacted level of \$103 million for FY 2014. FUSRAP provides for the cleanup of certain low-level radioactive materials and mixed wastes, which are located mostly at sites contaminated as a result of the Nation's early atomic weapons development program. This program was transferred from the Department of Energy to the Corps in the FY 1998 Energy and Water Development Appropriations Act.

Mississippi River and Tributaries

The President's budget requests \$245 million for FY 2015 for planning, construction, and operation and maintenance activities associated with Mississippi River and Tributaries water resources projects located in the lower Mississippi River Valley from Cape Girardeau, Missouri, to the Gulf of Mexico. This is \$62 million less than the FY 2014 appropriations of \$307 million.

Water Trust Funds

The Harbor Maintenance Trust Fund is supported by an ad valorem tax paid by the shippers (not including exporters) of cargo loaded or unloaded at a United States port. The funds are used to do maintenance dredging of harbors and to provide for disposal facilities for dredged material. The budget would use only \$915 million from the fund, resulting in an increase in the estimated balance to \$9.84 billion at the end of FY 2015. It is estimated that the tax collected more than \$1.566 billion in FY 2014. Approximately one-third of the Nation's federal navigation projects are currently at their constructed depths and widths, making our ports inefficient. As a result, the cost of traded products in 2010 increased by \$7 billion. This will rise to \$14 billion by 2040 if operation and maintenance needs are not met.

According to the American Association of Port Authorities (AAPA), seaports provide for \$200 billion in federal, state, and local tax revenue each year. Thirty million jobs are directly related to international trade, with the United States maritime industry alone providing 13 million jobs throughout the country. Overall, the AAPA research finds that maritime trade creates \$2 trillion of commerce annually in the United States. The Economic Research Service of the United States Department of Agriculture notes that for every dollar of goods exported, another \$1.36 in supporting activities is created.

The Inland Waterways Trust Fund is supported by a tax on commercial fuel used on specified inland waterways. The fund is used to pay for half of the federal cost of constructing navigation improvements on those waterways; the remaining half is paid from general revenues. The budget calls for using approximately \$85 million from the fund in FY 2015, allowing for a total of more than \$169 million to be available for capital improvement on the Nation's inland waterways.

Aging infrastructure along the inland waterway transportation system presents a growing challenge. The Corps is responsible for the operation and maintenance of 227 lock chambers in 185 locations nationwide. The average age of these locks is almost 60 years old. Reliability of transportation networks is critical to the Nation's economy. While this infrastructure has served the Nation well, operation and maintenance expenditures will only slightly prolong the life of a

depreciating asset that will continue to diminish in performance. In addition, as the asset gets older, its operation and maintenance requirements will grow.

The Administration has proposed instituting a tax on commercial vessels that utilize the Nation's inland waterways system. This proposal intends to raise \$80 million in FY 2015 and would be used to supplement the Inland Waterways Trust Fund, which is used to provide for capital improvements on the inland waterways system.

Flood Control and Coastal Emergencies

The Administration's budget request proposes \$28 million for the Corps' Flood Control and Coastal Emergencies (FCCE) account. The Corps has authority under the Flood Control and Coastal Emergencies Act (P.L. 84-99) for emergency management activities, including disaster preparedness, emergency operations (flood response and post flood response), rehabilitation of flood control works threatened or destroyed by flood, protection or repair of federally authorized shore protective works threatened or damaged by coastal storms, and the provision of emergency water due to drought or contaminated sources.

WITNESSES

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army—Civil Works

Lieutenant General Thomas P. Bostick
Chief of Engineers
United States Army Corps of Engineers

THE PRESIDENT'S FISCAL YEAR 2015 BUDGET: ADMINISTRATION PRIORITIES FOR THE U.S. ARMY CORPS OF ENGINEERS

WEDNESDAY, APRIL 2, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WATER RESOURCES
AND ENVIRONMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:08 a.m. in Room 2167, Rayburn House Office Building, Hon. Bob Gibbs (Chairman of the subcommittee) presiding.

Mr. GIBBS. Welcome. The Subcommittee on Water Resources and Environment of the Committee on Transportation and Infrastructure will come to order. At this time I would like to welcome our newest member, David Jolly from Florida. Welcome to the Subcommittee on Water Resources and Environment.

Let's see, let's see, we don't have any—OK. First of all, I want to ask unanimous consent that the hearing record be kept open for 30 days after this hearing in order to accept other submissions of written testimony for the hearing record.

[No response.]

Mr. GIBBS. Hearing no objection, so ordered. I am going to turn it over to the chairman of the full Committee on Transportation and Infrastructure, Congressman Bill Shuster, for an opening statement.

Mr. SHUSTER. Thank you, Mr. Chairman, I appreciate it. And welcome to Secretary Darcy and General Bostick. Thanks for being here today.

First, I wanted to touch on something that happened last week. The Obama administration released a proposed rule that would dramatically expand Federal jurisdiction over the waters and wet areas of the United States. This is yet another example of a disturbing pattern of an imperial Presidency that seeks to use brute force and executive action, while ignoring Congress.

Unilaterally broadening the scope of the Clean Water Act and the Government's reach into everyday lives will have adverse effects on all of us. It will impact the Nation's economy, threaten jobs, and invite costly litigation, restrict the rights of landowners, States, and local governments, and make decisions about their land. This massive Federal jurisdiction grab was the subject of failed legislation in the 110th and the 111th Congress. Strong bipartisan opposition prevented those bills from moving forward.

Defeated in Congress, now the Obama administration is trying to achieve this Federal power expansion through a rulemaking. This proposed rule supposedly aims to clarify which water bodies are subject to Federal jurisdiction under the Clean Water Act. But I am extremely concerned there are serious flaws in this process. Twice, the Supreme Court has told the agencies that there are limits to Federal jurisdiction under the Clean Water Act, and that they had gone too far in asserting their authority. Now, the administration has taken those Supreme Court rulings and cherry-picked discreet language from them in an attempt to gain expanded authority over new waters, rather than heeding the directive of the Court.

It is the responsibility of the Congress, not the administration, to define the scope of jurisdiction under the Clean Water Act. Regulation of the Nation's waters must be done in a manner that is responsible and protects the environment without unnecessary and costly expansion of the Federal Government. We cannot continue to protect our waters with unreasonable and burdensome regulations on our small business, farmers, and families.

So, again, it is of great concern, and this committee will hold aggressive oversight in seeing what the agencies are up to, and stopping them, quite frankly. Because, as I mentioned, it failed twice in the Democratic-controlled Congress, with bipartisan support, and two Supreme Court rulings said that they didn't have the ability to do this.

Again, I appreciate the Secretary being here, and the general, getting their views and priorities from the agencies. With the Corps of Engineers, what you are doing, you play a valuable role in the Nation, promoting waterborne transportation and appropriate flood protection. But the message should be clear; America does not properly maintain and modernize its most efficient means of transportation. And this, in the end, will lose us economic advantage in the global market, so it will cost us jobs.

The administration once again is delivering a proposed budget that cuts necessary investment in the Nation's water infrastructure by 20 percent, and it is clear there is a disconnect between the administration and what we need to do in America.

Again, I look forward to hearing from both of you today, and look forward to continuing to working with you as we face these difficult problems in America and transportation and water. Thank you, and I yield back.

Mr. GIBBS. Thank you, Chairman. First of all, I would like to welcome Secretary Darcy, Army Corps Engineers Civil Works, and General Bostick, the chief engineer, and his folks behind him that we work closely with.

Today, this hearing is about the President's fiscal year 2015 budget, the administration's priorities for the U.S. Army Corps of Engineers. I am a strong supporter of the efforts by Congress to control Federal spending. But once again, I feel like this is the old movie "Groundhog Day" for most of us on this committee.

Many of the Army Corps of Engineers activities that we are examining today are true investments in America because they provide jobs and stimulate an economic return. For nearly two centuries, the civil works mission of the Corps have contributed to the

economic vitality of the Nation and have improved our quality of life.

But, like “Groundhog Day,” this administration has again misprioritized the projects and programs of the Army Corps of Engineers. I believe the Congress and the administration must be supportive of programs that have a proven record of providing economic benefits.

The fiscal year 2015 budget request by the administration for the Corps of Engineers is approximately \$4.5 billion. This request is less than what was requested in previous budgets, and almost 20 percent less than what was appropriated by this Congress for fiscal year 2014.

In 2011, we had some of the worst flooding on record in this country. In 2012, we were struck by several major natural disasters. And in 2015, it is likely an expanded Panama Canal will become operational. Yet, the President has learned little from the recent experiences of coastal storms since his budget proposes investing no funding for construction of shore protection projects nationwide. In addition, he sends to Congress a budget that has an ecosystem restoration construction budget that is three times larger than its coastal navigation construction budget.

Fiscal year 2014 budget was where we expected to find funds to match the administration’s rhetoric on initiatives, like the President’s export initiative, or the President’s “We Can’t Wait” initiative. Since the funds are also absent in the fiscal year 2015, budget, perhaps we should call it the “We’re Still Waiting” initiative.

Instead, while the President is proposing just over \$915 million out of the Harbor Maintenance Trust Fund for operation and maintenance activities in fiscal year 2015, just last year, in Fiscal 2014, it is estimated the administration collected \$1.566 billion in the Harbor Maintenance Trust Fund in taxes, paid by businesses for the purposes of maintaining America’s ports. This will not keep up with a growing demand on our ports to accommodate more and larger ships that will leave the—and will leave the trust fund with almost \$10 billion in IOUs in the Nation’s ports at the end of the next fiscal year.

This administration is not the first to shortchange America’s water transportation system, but I find it irresponsible for any administration, or for Congress itself, to not fully spend the tax dollars collected for their intended purposes. We got a little heckling there. I know we need to find savings, but savings could be found by slowing down work on some environmental restoration projects until the economy turns around.

Instead, the President’s budget prioritizes these activities above coastal navigation. The largest coastal navigation expenditure in the construction general account is less than \$35 million in the Delaware River area. By comparison, the three largest ecosystem project expenditures in the construction general account are for one project for almost \$70 million, and another project for \$65.5 million, and one project for almost \$50 million. And two of those multi-million-dollar ecosystem restoration activities are at the behest of other Federal agencies, like the United States Fish and Wildlife Service, and the National Marine Fisheries Service.

I admire the good work the Corps of Engineers does related to the environmental restoration, but when our cities and towns are suffering from extraordinary flooding, and our farms and our factories are struggling to compete in the global marketplace, I believe we need to focus on missions that protect people and benefit the economy, and create jobs.

While we in Congress understand the Corps of Engineers has to comply with the Endangered Species Act and other laws, every year the agency has to spend hundreds of millions of dollars on so-called environmental compliance activities at the whim of other Federal agencies with no end in sight. I think it is time for the Corps of Engineers—needs to say enough is enough.

Budgets are about priorities. A priority of any administration should be to put the United States at a competitive advantage in the world markets. According to this budget, the coastal navigation system the Nation—that the Nation has today, which is the same coastal navigation system we had when the President took office, will be—will it be enough to keep the United States competitive when the Panama Canal expansion is complete?

Many of us in Congress disagree. While the President's export initiative and "We Can't Wait" initiative made some promises to the public, unfortunately, many of us in Congress believe the President's budget does not deliver on these initiatives. Like the "Groundhog Day," once again, the President overpromises and underdelivers.

Lastly, the President's budget, proposed budget, for the Corps of Engineers strangles the planning budget for the new projects. The budget proposes a \$45 million cut for studying new projects that are requested by local non-Federal project sponsors. The planning budget provides a tremendous value to the Nation by tailoring solutions to local needs, and is a direct link to the Army's planning for war fighting and force protection. By eviscerating and planning—the planning budget, the President's budget creates uncertainty for both the Army's civil works and military missions.

On top of this budget malpractice, the President last week released a proposed rule that will dramatically extend the reach of the Federal Government when it comes to regulating ponds, ditches, and other wet areas. This will restrict the rights of land-owners, increase compliance costs for those trying to create jobs in this country, stifle investment in those same businesses, and create an imbalance in the State and Federal roles in carrying out the goals of the Clean Water Act.

I am extremely concerned that this administration is once again trying to do an end-around Congress to expand Federal power under the Clean Water Act.

I look forward to your testimony today, and assign my—yield my time to my ranking member, Mr. Bishop, for any comments he might care to make.

Mr. BISHOP. Thank you very much, Mr. Chairman, and I thank you for scheduling this hearing on the Army Corps of Engineers budget for fiscal year 2015. I wish to welcome our two witnesses today, and thank them for their service to our country.

Before I proceed, I want to personally thank you, Assistant Secretary Darcy, for your support in moving the Hurricane Sandy re-

covery effort forward. As you know, the storm directly impacted Long Island and many of my constituents. All along the coast, beaches and dunes were obliterated, leaving thousands of people directly exposed to the full force of the Atlantic Ocean and future storms. Because of your leadership, we are now finally headed toward returning sand back to protect these beaches. I look forward to working with the Corps to see these projects through to completion. So, again, I thank you very much.

I want to start off with a couple of specific statements about the budget, and then conclude with a comment about the recently released draft rule for the Waters of the United States. Despite the progress on Sandy, I am, for one—I am very disappointed in the administration's fiscal year 2015 budget request for the Corps. The total funding for the Corps has decreased by almost 17 percent from fiscal year 2014 appropriated levels, and that is reflected in reductions in funding across the board in the construction, operation, and maintenance, and navigation, and Mississippi River accounts. It seems to me that we are well beyond the point of doing more with less. Rather, we are now at the point where we have to make difficult and very risky decisions on where we focus the Corps' efforts.

From an O&M perspective, this means decisions on which communities and populations are put at risk of increased damage from floods, storm surges, lost navigational ability, and loss of structures. I can appreciate the can-do attitude of the Corps, but we all have to agree that cutting the budget will result in real impacts to the mission and ability of the Corps to do its job.

As you are aware, we will hopefully soon conclude conference negotiations on the new Water Resources Development Act. We are confident that we will be able to provide the Corps with improved direction on how we, the Congress, would like the Corps to prioritize its activities, address working with non-Federal sponsors, and handle the harbor and inland waterways needs across the country.

The latter issue of harbors and the Harbor Maintenance Trust Fund is particularly important to me and many other Members on both sides of the aisle, whose districts depend on harbors. I will be releasing later today a letter to the Committee on Appropriations calling for the full utilization of the Harbor Maintenance Trust Fund without—and I stress this—without diverting budgetary resources from other Corps construction or operation and maintenance programs. If there is one area that we have had consistent feedback on during the WRDA process, it is that Members, constituents, businesses, and communities want harbors and shipping channels into the harbors maintained to authorize widths and depths. But we don't want these maintenance needs to come at the expense of other Corps mission areas and construction projects. We have to find a way to get more money back to the donor harbors and support the needs of small and mid-sized harbors.

And I would say to my colleagues on this committee I am urging you to join me in signing this letter. This is an area where, in our WRDA markup and in previous hearings over the course of the last 4 years on this subject, there has been near unanimity. It has not broken down along party lines. Republicans and Democrats agree

that we want more money out of the Harbor Maintenance Trust Fund, but we do not want it to come at the expense of other accounts within the Corps. So, please, I urge you, join me in sending this letter to the appropriators, so that we, the Transportation and Infrastructure Committee, can speak with one voice on this issue that is important. Let us stop pointing fingers, and let us try to be part of the solution.

The second area of concern is the decreased funding for both the investigations and the constructions account. The investigations account is being reduced by 36 percent, and the construction account by 32 percent from fiscal year 2014-enacted levels. As you know, in a no-earmark world, the only way projects are being moved forward is by the administration asking for them. In my opinion, the reductions in these two accounts in particular takes away the primary role by which projects are being identified and integrated into the Corps program. My concern is that the Corps is losing critical mass and support in respect to engineers and projects with a budget approach of this sort.

Before concluding, I want to briefly address last week's review of the Waters of the United States proposed rule. We have heard a lot of rhetoric about this being a regulatory overreach and regulation by fiat. For the record, when this administration proposed to clarify the scope of the Clean Water Act by a proposed guidance, which is the same manner—that is to say the same manner—used by previous administration, certain groups vehemently opposed it, and demanded a more formal rulemaking approach.

In response to that call, the Corps and the EPA shifted gears, initiating what the public called for, a negotiated public rulemaking, one that has a mandatory public comment period before an agency can proceed further. Not surprisingly, many of the same concerned groups as before are now stating that the Government is overstepping its bounds. To be clear, the administration has stepped in only to alleviate the confusion and uncertainty surrounding the scope of the Clean Water Act that was a result of the Supreme Court's decisions in 2001 and 2006.

All parties, including developers, farmers, and resource managers would benefit from additional clarity on which waters are covered by the act and which waters are definitively not covered. This rulemaking effort is the response that people ask for. Perhaps, better than criticizing the public rulemaking process, we should allow it to move forward, and let decisions be made on science and on the feedback received. Let's forget the hyperbole and the vitriolic comments, and let's let the process work.

Once again, I thank you, Assistant Secretary Darcy and General Bostick, for your work on behalf of our Nation's waters, and I look forward to your testimony.

Mr. Chairman, I yield back.

Mr. GIBBS. If other Members have an opening statement, they can submit them for the written record.

And at this time I wanted to turn it over to Secretary Darcy for her opening statements. And if we can try to keep it within 5 minutes or so, because I want to allow plenty of time for Members to ask questions.

So, welcome, Secretary Darcy.

TESTIMONY OF HON. JO-ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS); AND LIEUTENANT GENERAL THOMAS P. BOSTICK, CHIEF OF ENGINEERS, U.S. ARMY CORPS OF ENGINEERS

Ms. DARCY. Thank you. Thank you Mr. Chairman and distinguished members of this subcommittee. Thank you for the opportunity to present the President's budget for the civil works program of the Army Corps of Engineers for fiscal year 2015. I am Jo-Ellen Darcy, the Assistant Secretary of the Army for Civil Works, and I will summarize my statement and ask that my complete statement be included in the record.

The budget for fiscal year 2015 for the civil works program provides a fiscally prudent and sound level of Federal investment in the Nation's water resources. The President's 2015 budget includes \$4,561,000,000 in gross discretionary appropriations for the Army civil works program, offset by a \$28 million cancellation of unobligated carry-in fiscal year 2015. A total of 9 construction projects—3 of them navigation, 4 flood risk management, and 2 aquatic ecosystem projects—28 studies, and 6 designs are funded to completion in the 2015 budget.

Completed construction projects will result in immediate benefits to the Nation, and directly impact many local communities, as benefits are realized from the combined Federal and non-Federal investments. The civil works budget includes funding for 1 priority construction new start, and 10 new study starts in the investigations account, including the water resources priorities study, which will build upon and broaden the progress that is being made by the Corps in its North Atlantic Coast Comprehensive Study, which was funded under the Disaster Relief Appropriations Act.

At a funding level of \$915 million, the budget provides, for the third consecutive year, the highest amount ever proposed in a President's budget for work financed through the Harbor Maintenance Trust Fund to maintain coastal channels and for related work. The budget funds capital investments in the inland waterways, based on the estimated revenues to the Inland Waterways Trust Fund under current law.

The budget also assumes enactment of the legislative proposal submitted to the Joint Select Committee on Deficit Reduction in 2011, which would reform the laws governing the Inland Waterways Trust Fund. The administration's proposal would generate an estimated \$1.1 billion in additional revenue over 10 years, from the commercial users of these inland waterways. This amount reflects estimates of future capital investment for navigation on these waterways over the next decade, including an estimate adopted by the Inland Waterways Users Board.

The proposal is needed to ensure that the revenue paid by commercial navigation users is sufficient to meet their share of the costs of capital investments in the inland waterways, which would enable a significant increase in funding for such investments in the future.

The budget provides \$398 million for dam and levee safety activities, including \$38 million to continue the levee safety initiative, which involves an assessment of the conditions of our Federal levees.

In continued support of the President's Veterans Job Corps, the budget includes \$4.5 million to continue the veterans curation project, which provides vocational rehabilitation and innovative training for wounded and disabled veterans, while achieving historical preservation responsibilities for archeological collections administered by the Corps of Engineers.

In summary, the 2015 budget for the Army civil works program is a performance-based budget that supports an appropriate level of funding for continued progress, with emphasis on those water resources investments that will yield high economic, environmental, and safety returns for the Nation and its citizens. These investments will contribute to a stronger economy; support waterborne transportation; reduce flood risks to businesses and homes; restore important ecosystems; provide low-cost, renewable hydropower; and deliver other benefits to the American people.

Mr. Chairman and members of the subcommittee, I look forward to working with the committee in order to support the President's budget. Thank you.

Mr. GIBBS. Thank you, Secretary Darcy.

General Bostick, welcome.

General BOSTICK. Chairman Gibbs, Ranking Member Bishop, Chairman Shuster, and members of the subcommittee, I am honored to testify before your committee today, along with Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy, on the President's fiscal year 2015 budget for the civil works program, and the United States Army Corps of Engineers.

I have been in command for nearly 2 years now, and I am extraordinarily proud of our people and the missions they accomplish each and every day. I would like to touch briefly on the U.S. Army Corps of Engineers campaign goals.

First, we support the warfighter. We continue to work in more than 130 countries, using our civil works, military missions, and research and development expertise to support the Army's service component and combatant commanders. We often find ourselves at the apex of defense, diplomacy, and development with our work. And, as such, the Corps of Engineers supports the national security of the United States. Also, within this goal, we are focused on sustainability and energy, as well as our support to our interagency partners, such as the Department of State, Department of Veterans Affairs, Department of Energy, and many others.

Second, transform civil works. I have had the opportunity to speak to many stakeholder groups and elected officials about the state of the Nation's water resources infrastructure and its shortfalls. The four elements of our civil works transformation strategy will help address some of these issues, and make us more efficient and effective. Those elements include: modernize the project planning process; enhance the budget development process through a systems-oriented approach and collaboration; evaluate the current and required portfolio of water resources projects through an infrastructure strategy to deliver solutions to water resources challenges; and, finally, to improve our methods of delivery to produce and deliver both products and services through water infrastructure and other water resource solutions.

Third, we must reduce disaster risks and continue to respond to natural disasters under the national response framework, as well as our ongoing efforts with flood risk management. The Sandy recovery work is progressing on schedule. More than 200 projects from Florida to Maine and into Ohio were adversely impacted by the storm. In 2013, the Corps successfully repaired many projects, and returned approximately 15 million cubic yards of sand to affected beaches. In 2014 the Corps is on track to remediate the remaining Sandy-impacted beaches, and we expect to place approximately 50 million cubic yards of sand on these beaches.

The study team has been working with over 100 regional partners on the comprehensive study. The framework developed in this study looks at vulnerabilities across a large coastline, and identifies measures that could be used to mitigate future risk. It will include a full range of possible risk reduction strategies, from structural to nonstructural, and nature-based features. And it will provide regional partners with methods they can adjust to meet the demands within their specific communities.

Fourth, prepare for tomorrow. This is about our people. Ensuring we have a pipeline of science, technology, engineering, and mathematics professionals, as well as a talent management plan for their growth and development.

We are also focused on research and development efforts that will help solve some of the Nation's toughest challenges. One great example is the sea-level rise tool first developed in use for our post-Sandy recovery efforts. The interagency team that developed this tool won the President's Green Government Award last year. The calculator is now being utilized to analyze other vulnerable areas across the Nation.

We are reviewing our internal operations and processes to ensure that, in a time of fiscal uncertainty and challenge, the Army Corps of Engineers is postured for future success.

Lastly, we want to help our wounded warriors and soldiers transition into fulfilling civilian careers. I am proud that last year we had 140 Operation Warfighter interns in the Army Corps of Engineers, and assisted 120 wounded warriors in obtaining civilian jobs.

Mr. Chairman, I ask that you and other Members refer to my complete written testimony submitted to the committee for the 2015 budget specifics. I thank you for this opportunity, and look forward to your questions.

Mr. GIBBS. Thank you, General. At this time I turn it over to Chairman Shuster for any questions he may have.

Mr. SHUSTER. Thank you very much, Mr. Gibbs. Secretary Darcy and General Bostick, natural gas obviously has a tremendous opportunity for this Nation. In Pennsylvania alone, the Marcellus shale formation has produced 2.2 trillion cubic feet of natural gas in 2012, and it is reinvigorating Pennsylvania's economy. Unfortunately, bureaucratic red tape from the Corps of Engineers is preventing much of this production from going on in Pennsylvania, and getting to the market.

Over a year ago, a single district office of the Corps of Engineers, the Baltimore office, made some new interpretations on how water resources crossing permits for natural gas pipelines were being re-

viewed in Pennsylvania. The new interpretation is duplicative. It requires duplicative reviews and is significantly delaying the issuance of permits from fewer than 60 days to now several months, in some cases.

Even worse, it is blatantly unfair to Pennsylvania. You are letting a single Corps office treat Pennsylvania differently than it does other States. I have been told over and over again there is no change. My understanding is the process is very different. Under the current process, the Corps now categorizes virtually all gas pipelines crossing projects as category three, requiring Corps review. Under the provision, most pipeline projects were categorized under category one, which only required State or DEP for review and approval. Today, over 90 percent of these pipeline projects are category three, causing significant delays, as I said.

How can you tell me there is no change in the interpretation? And we continue to hear that from the Baltimore district, but it just, to me, seems like there has been a significant change. And we believe it is singling out Pennsylvania.

Ms. DARCY. Congressman, within Pennsylvania, you have a general permit with the Corps of Engineers. In the last year or so—about 85 percent of the permits have been done by the State of Pennsylvania. The other 15 percent are ones that require Corps review.

In the last year, we have also opened a new Corps district office in Tioga, Pennsylvania, that, I think, is dealing more specifically with some of these new requests.

Mr. SHUSTER. Those are nice words, but that is not what we are hearing from the producers in Pennsylvania. And we are going to absolutely nail down the numbers that we are getting and present them to you. Because, again, I disagree that is happening.

When you look at the pipeline projects that are in other States that follow the nationwide permit 12, Pennsylvania is treated differently. And I have a chart here that has one, two, three, four, five, six, seven—seven States on it, and only Pennsylvania has impacts added for general permitting review. These other seven States do not. And how come they have water, they have mountains, they have the same situation going on, and Pennsylvania—and I have heard over and over—Arkansas, for instance, I talk to folks from Arkansas, they are drilling, and they say, “We don’t have a problem.” It is just in Pennsylvania.

And again, it just seems to me it is coming out of the Baltimore district office. So something that—again, my gas producers are telling me over and over again these things are occurring. And, as I said, I show a chart here. Pennsylvania is in a different category than the rest of these States. It is something we have to get to the bottom to.

Again, we are now getting our producers to get the facts, and we want to make sure you come in, you can sit down, and you can have your day and refute what they are saying. But, again, it is having a significant negative impact in Pennsylvania. And, again, it is not fair, and we want to make sure we get this resolved.

Ms. DARCY. We would be happy to work with you on that, Congressman. I am not quite sure which other States you are referring to, but some States don’t have the same general permit agreement

that Pennsylvania does. Some of them are operating, as you mentioned, under the——

Mr. SHUSTER. Well, it is 404 general permitting, and it is the nationwide permit 12. Louisiana, Arkansas, Oklahoma, Texas, Ohio, West Virginia, are all under those same provisions, I am told, and they don't have to go through any of the process Pennsylvania does, or less of a process, I should say, than Pennsylvania.

So, I have got this, I will provide it to you. But, again, we look to follow up. And, again, I am going to bring the experts in from my State that know far more than I do that can sit down with your folks and figure this out. Because, again, if Pennsylvania is not allowed to produce, it is going to damage, obviously, Pennsylvania's economy, it is going to damage jobs, it is going to damage the Nation. And right now we have an opportunity in the world to make sure we are producing gas and getting our gas overseas so we can stop what Russia is trying to do, and this is one way that we can use it as a lever to stop that.

So, again, we will be talking to you, and I am going to make sure we provide this to you. Thank you very much.

Mr. GIBBS. OK. Mr. Bishop?

Mr. BISHOP. Thank you very much, Mr. Chairman, and I thank our witnesses.

I want to—before—I have a couple questions I want to ask about the Clean Water Act proposed rulemaking, but I just want to just put on the record two things.

One is that, while we are here right now, the House Budget Committee is marking up a resolution, budget resolution, that would cut domestic discretionary spending by \$791 billion over the next 10 years from the post-sequestration baseline. Now, that is where the Corps' money comes from, the domestic discretionary account. And it is inconceivable that if we were to ever put into law a \$791 billion cut to domestic discretionary spending from post-sequestration levels, that somehow the Corps would be held harmless. It is inconceivable.

And so, what I am going to urge all of us to do, both sides of the aisle, is let's not point fingers. Let's not blame the President or the Corps for budget allotments that are insufficient—we all agree they are insufficient—but then turn around and vote for a budget resolution that would make those budget allotments which are insufficient look like a day at the beach. It is just not—it is not consistent, it is not helpful, it is not productive.

And, at the same time, if we are serious about what we have all said, virtually all of us, about the Harbor Maintenance Trust Fund, then let's sign my letter, let's sign Congresswoman Hahn's letter, let's put some pressure on the appropriators to do what we collectively, as a T&I Committee, think we should do. I urge us to do that. We have been, I think, a model of nonpartisanship in the way we have approached this issue. Let's continue that by approaching the appropriators with a formal request. End of sermon; I am sorry.

Waters of the United States. The import of the SWANCC and *Rapanos* rulings, as I understand it, is that in order for a water to be regulated under the Clean Water Act, that body of water had to maintain a nexus to a navigable body of water. Is that correct?

Ms. DARCY. Yes, that is correct.

Mr. BISHOP. And is it correct that the proposed rulemaking that the Corps and the EPA released lives entirely within that definition?

Ms. DARCY. Yes, it does.

Mr. BISHOP. OK.

Ms. DARCY. It also provides a definition of significant nexus that is out for public comment.

Mr. BISHOP. OK. Thank you. Is there any body of water that was not regulated by the Clean Water Act in the 30 years that the act existed, pre-*Rapanos*, pre-SWANCC, that is now—would now be subject to Clean Water Act regulation, based on the new proposed rule?

Ms. DARCY. No, Congressman.

Mr. BISHOP. Thank you. And the whole notion of rulemaking is one that has routinely been engaged in to define the act. Is that correct?

Ms. DARCY. That is correct, sir. Also, *Rapanos* requested that the agencies do a rulemaking in order to clarify.

Mr. BISHOP. OK. And the rule—is it correct that the existing exemption for prior converted farmland, and the existing exemption for wastewater treatment systems, those exemptions were created by rulemaking? Is that correct?

Ms. DARCY. That is correct.

Mr. BISHOP. Not legislation?

Ms. DARCY. That is correct.

Mr. BISHOP. OK. Do the existing farmland exemptions that existed in Clean Water Act and, in effect, have been protected by SWANCC and *Rapanos*, do those exemptions remain within the proposed rulemaking that you are putting forward?

Ms. DARCY. Yes, they do for farming, silviculture, and ranching.

Mr. BISHOP. OK. Thank you very much. Mr. Chairman, I yield back the balance of my time.

Mr. GIBBS. OK, thank you. Secretary Darcy, well, first of all, I want a statement—talk about prioritizing spending, and the President's budget, in my opening statement, I talk about how much is going for eco-restoration and not for the construction projects.

And in regard to my ranking member's comment about baseline spending and post-sequester, I don't want anybody to get the idea that there is not—there is less money from the previous years in the total budget apparatus that is being set up, because it is baseline, it is after sequester now, we are past the cuts, it is actually still growing funds, just not getting—it is not posing as much growth as we have posed in—baseline.

Secretary Darcy, the 10 largest ports that—authorized today, if Congress were to enact the President's budget, of those 10 largest ports, how many of them would be at their authorized dimensions by the end of fiscal year 2015?

Ms. DARCY. Well—

Mr. GIBBS. Well, first of all, how many aren't? Or, you know, out of 10, how many are not authorized, and how many would be if we enacted this budget?

Ms. DARCY. This budget plans for the operation and maintenance dredging for about 59 of the highest use commercial harbors in the

country. However, they would not be fully dredged to their authorized width and depth. I think it is one-third of the time they would be.

General BOSTICK. Right. They are dredged to half their authorized width one-third of the time.

Mr. GIBBS. A third of the time?

General BOSTICK. A third of the time they are dredged to half their authorized width.

Mr. GIBBS. But of the 10—but I think that is counting all the 59 largest. But the 10 largest ports, the——

General BOSTICK. That is counting——

Mr. GIBBS [continuing]. Ones, how many of those are at their depths, you know, required depths, now? Do we know?

General BOSTICK. I don't know that. We would have to——

Mr. GIBBS. I think it is probably two, but I am just kind of guessing.

Ms. DARCY. Two? Well, I was——

General BOSTICK. Some of those are naturally——

Mr. GIBBS. What is that?

General BOSTICK. Some of those are naturally dredged at that depth, but——

Mr. GIBBS. But I am getting—I guess I am not hearing that, if we enact the President's budget, that we are going to—you know, those 10 largest ports for our import and our exports, our economy, will be there at the depths they need to be, especially the Panama Canal coming online.

Ms. DARCY. Congressman, we will get you that——

Mr. GIBBS. OK.

Ms. DARCY [continuing]. List of the 10, and——

Mr. GIBBS. Next——

Ms. DARCY [continuing]. What they would be.

Mr. GIBBS. Next question. Secretary Darcy, you talk about President's budget, for the second time, proposes an \$80 million fee for vessels on the inland waterway system. And you mentioned that in your opening statement, but you didn't say where the \$80 million is coming from, other than the vessels. So what—mechanically, what or how would—is it lock fees, or what is it?

Ms. DARCY. It would be a user fee, it wouldn't be a lockage fee. That was something that was contemplated awhile back. This would be a user fee. And the exact specifics are still in development, but it would be a user fee on the transport through the lock by the particular vessel.

Mr. GIBBS. OK. On the—regarding the Clean Water Act and the proposed rule, I know there is a—be a 90-day comment period. What other things are scheduled, the remaining steps in the rule-making process? You know, what——

Ms. DARCY. Well, there is, as you mentioned, a 90-day public comment period. After that public comment period is concluded, the agencies will address those public comments before any rule is final.

We are also currently awaiting the EPA Science Advisory Board recommendations——

Mr. GIBBS. Well, OK, that is what I wanted to get to, and I am glad you brought that up, because that was my next question, about the science report.

And, you know, we talk about the need for this to bring clarity. And it seems like, to me, the Corps and the EPA kind of got the cart ahead of the horse here, because the science report is—the assessment is not done, and you already put out the rule for comment. Wouldn't it makes sense to see what the connectivity report, science report, says first?

Ms. DARCY. Congressman, the connectivity report—science report—is out there, as well. It is currently being reviewed by the Science Advisory Board, which was made up of a number of professionals in related areas. The science report was produced within EPA, and then now it is being reviewed by the Science Advisory Board. We put it out at the same time. We will not finalize a rule until the connectivity report has been concluded and the results prepared by the Science Advisory Board.

Mr. GIBBS. I know you already answered questions about possible exemptions, agricultural exemptions and others. When I look at the rule, I get nervous because you talk about the—some things we looked at case by case, you talk about the nexus issue and tributaries, you can redefine tributaries. I think some people could interpret it that it is possible that ditches could be included in this. And I have had some farmers already ask me how about if they are crossing with their equipment, say 28 percent nitrogen fertilizer, across a swail, you know, would that become a regulations—you know, it seems mission creep. But I am really concerned about that.

Ms. DARCY. Congressman, when we proposed the rule last week, at the same time we also published an interpretive rule with EPA, and we, the Army Corps of Engineers, entered into a memorandum of understanding with U.S. Department of Agriculture and EPA in order to make it clear what was exempt. And we went to the silviculture, farming, and ranching practices that I mentioned earlier, in addition to those farming practices that have come on board since the passage of the Clean Water Act that are now considered existing farming practices. Some of them help to improve conservation, some of them help to improve water quality, and we have a list of those 52—I think it is 53—practices that would continue to be exempt.

Mr. GIBBS. OK. My time has expired, but we will do another round. Got more questions.

But Ms. Edwards? Yes, we move pretty quick here.

Ms. EDWARDS. Thank you. I didn't think I was next, I thought—I just arrived, so I apologize.

Well, thank you very much. I just have one potential concern with the proposed rule that the EPA and Army Corps are bringing certainty to various sectors of our economy that has been asking EPA for a rule to address the regulatory status. But the proposal is very important, as you know, the State of Maryland, since we have the fourth longest coastline in the continental United States. I think people find that hard to believe, given how small our State is. The Chesapeake Bay and several of its tributaries, including the Anacostia, which runs through my district, the Potomac, and Sev-

ern Rivers that all flow through the Fourth Congressional District, and the shoreline of the Chesapeake and its title tributaries actually stretch over 2,000 miles, with thousands of miles of streams, rivers, and acres of wetlands.

So, I wonder if you could tell me about the proposals that you have, in terms of the restoration of the Chesapeake Bay for protection of health, and the health of the watershed. And also, if you could, talk to me about the progress of the projects along the Anacostia River. There have been several proposals over a period of time, and it feels like if we could just really jump in there, we have some great potential with also restoring the Anacostia.

Ms. DARCY. I will start with the Chesapeake Bay. As you know, the Chesapeake Bay is one of the ecosystems of national significance that we have been looking at, in addition to all of our other Federal partners. Our current expenditure for Chesapeake Bay—I am looking at my staff behind me—I don't have it at the tip of my fingers, what it is for—but I will get that to you before we leave here, for that Chesapeake Bay restoration. I know we are doing oyster restoration in the bay.

Ms. EDWARDS. Right.

Ms. DARCY. I think that was budgeted at \$5 million, but—

Ms. EDWARDS. That is right.

Ms. DARCY [continuing]. I would have to check that. And it has been very successful throughout the bay. Actually, I was able to see how some of it was being implemented in the Norfolk District in that very southern part of the coastline.

As far as the Anacostia River, we have undertaken a comprehensive study with a number of local communities, the city of Washington, as well as Montgomery County and Howard County, in putting together an Anacostia study for restoration of that river, and—

Ms. EDWARDS. Prince George's County, too, right?

Ms. DARCY. Yes.

Ms. EDWARDS. Thanks.

Ms. DARCY. I used to live in Maryland, I am trying to go up the coast. It has been very successful. And part of that was a combination of not only the Corps study, but each of the local communities looking at what it is they could do within their own authorities, as far as restoration and cleanup, including things like stormwater runoff, or different kinds of conservation, as well as recycling in each of those jurisdictions. The study is in the 2015 budget; we have funded this particular study to completion, so it should be finished in 2015.

Ms. EDWARDS. And so then, how—you know, after the study is completed, I guess the people who live along those—along the rivers, and particularly the Anacostia, wonder. After the study is completed—and this has been a long process for them—then what? And how soon?

Ms. DARCY. After the study is completed, the recommendations in the study, which have all been sort of agreed to within the communities, the implementation will happen. Whether it is project-specific for a city, or whether it is a county, if a particular project is recommended, we would find cost-share sponsors in order to move forward with those activities.

Ms. EDWARDS. OK.

Ms. DARCY. I don't have the specifics of what those projects are, but I can provide those to you for the record.

Ms. EDWARDS. Well, we should maybe follow up with that.

Ms. DARCY. OK.

Ms. EDWARDS. And then, lastly, I wonder—although it is not in my district, it is of great concern to all Marylanders, and that is what is happening with the Baltimore Harbor and the operations and maintenance work that is going on there. And if you could, describe that a bit and give us a sense of the progress, and then the budget allocation.

Ms. DARCY. OK.

Ms. EDWARDS. Which has increased this year, I understand.

Ms. DARCY. I think our O&M budget for Baltimore did increase this year. I am going to ask Amy to get you the exact number.

Ms. EDWARDS. And how is the—I mean budget has increased. What is the progress?

Ms. DARCY. In the Baltimore Harbor? I think we have had significant progress there. It is one of our showcase ports on the east coast, because it is at 50-foot depth already. There is lots of competition for additional depths in other places, but Baltimore is already at 50, so that is a good news story.

Ms. EDWARDS. Great, thank you. Thank you, Mr. Chairman.

Mr. GIBBS. Mr. Crawford?

Mr. CRAWFORD. Thank you, Mr. Chairman. I want to thank Secretary Darcy and General Bostick for being here today.

Secretary Darcy, I represent the First District of Arkansas, and we refer to it as the east coast of Arkansas. I have about 600-plus river miles of the Mississippi River, among other rivers in the district. And, as you know, the shallow draft ports located on the Mississippi River didn't receive adequate funds for dredging. In order for us to have a successful river system, it is critical that all those ports are in working order. We consider those ports the on-ramp to the super-highway that is the Mississippi River. And I commend you for including the dredging projects in your work plan for this year.

I have been working with many of my colleagues to ensure that the current WRDA bill contains a mechanism so that Congress can provide regular funding to dredge those additional ports. Madam Secretary, with the important role that these ports play in our country's economy, what is the reason the administration has not made their maintenance a higher priority in their budget?

Ms. DARCY. Congressman, when we do the budgeting for the operation and maintenance of our ports and inland waterways, we focus on the highest commercial use. And those are the ones that we referenced earlier. So the lower use ports don't get as much as the ports that have higher commercial use.

Mr. CRAWFORD. I would only offer that we try to balance it. We talk about the top 59 carrying 90 percent of the cargo. And of all of the money that is allocated, 70 percent of the money goes to those top 59 that carry 90 percent. And we don't give them 90 percent, which one might think is parallel, in terms of the amount we would offer, so that we can provide funds to the moderate and low commercial-use ports. So it is not—and even in terms of the per-

centage of what they provide, but it is an understanding that we do have to do exactly as you say.

Thank you, yield back.

Mr. GIBBS. Mr. Garamendi?

Mr. GARAMENDI. Thank you, Mr. Chairman. This hearing started out with a discussion on the overall budget. The ranking member, Mr. Bishop, correctly pointed out that this is a problem that we have created. This House and the Senate have put together the sequestration. And the proposed budget that is now before the House from the Majority party is an extraordinary decrease in the discretionary funds, which will have a direct impact on what the Army Corps of Engineers is able to do within the United States. And so, we should be paying very, very close attention to what we, the House of Representatives and the Senate, are doing to the Corps projects.

Having said that, I do want to focus on a couple of other issues that are there. First of all, I want to thank Ms. Darcy and the general for the work that you are doing on trying to push forward projects very quickly. Your 3×3 is actually working, and we see it in our area, in the Sacramento Valley, projects that once took years—I mean multiple years, decades—are now being moved forward very quickly. I hope you continue that work. You can comment, if you would, at the end of my discussion here.

Also, I want to thank you for the ecosystem restoration projects, which are more than ecosystem. These are actual construction projects that are life-saving. The Hamilton City Project is one that is now underway. It is ecosystem, in that it sets back the Sacramento River levee, creating a habitat and flood protection for a small community, Hamilton City. Thank you very much for pushing that forward under the ecosystem umbrella.

Also, the Yuba River Project is an ecosystem project. It is extremely important. And, again, it is on your agenda, and I thank the Corps and Ms. Darcy for having pushed that forward.

There are other things that are going on, all good. The Corps is able to move projects forward. The Sutter Buttes Project, 40 miles of levee improvement, perhaps as many as 200,000 people will be safer as that project moves forward. And I thank you for moving that forward.

The Natomas Project, perhaps the most dangerous after—most dangerous city, Sacramento—after New Orleans, and maybe now the most dangerous, you have moved that project forward. We thank you for that.

There are other things that are out there, and I would like to call the attention of the committee to an issue that we dealt with in the 1990s for all of the recreation programs that are conducted by the Federal Government. The National Parks, the Bureau of Reclamation, Fish and Wildlife Service, all of these agencies provide significant recreational opportunities for Americans and visitors from overseas.

In the 1990s, we allowed those organizations to use the fees collected at the recreation sites to enhance the recreation opportunities and visitor opportunities for everything, national parks, and the like. Somehow we left out the Corps of Engineers. And the Corps of Engineers recreation fees go back to the general fund. And

then we have to appropriate money for enhancements of the recreational programs that the Corps of Engineers runs.

We ought to do away with that. We ought to let the Corps keep the recreation fees, avoiding the appropriation process, which starves the Corps of Engineers recreation programs. I think this is something in all of our districts we should pay attention to.

Now, I don't know why it was there in the 1990s, I was at the Department, and I wasn't really paying attention to the Corps, I suppose, and it got left out.

All in all, I want to compliment the Corps for moving forward. We will take up the Waters of the U.S. at another hearing. But right now you have done well by my district, and I appreciate it. Thank you.

Ms. DARCY. Thank you, Congressman.

Mr. GIBBS. Mr. Webster?

Mr. GARAMENDI. Yield back my time.

Mr. GIBBS. Yes. Mr. Webster?

Mr. WEBSTER. Thank you, Mr. Chairman. Secretary Darcy, if a port wants to do a deepening project on their own under section 204 of WRDA from 1986, and then have the Corps take the responsibility of maintenance and operation, how does the Corps define "prior to construction"? Is it a—when a contract is advertised, or is it when the contract is awarded, or is it when the dredge actually drops a bucket into the water?

Ms. DARCY. When the contract is awarded, sir.

Mr. WEBSTER. What types of determinations does the Corps have to make prior to agreeing to assume that operation and maintenance responsibilities of a locally constructed navigation project?

Ms. DARCY. In order to assume the maintenance?

Mr. WEBSTER. Yes.

Ms. DARCY. We just have to assure that the project has been developed and constructed according to the Corps regulations. And, after that, the O&M, under section 204, a request has to come to my office, and then the assumption of O&M would be granted.

Mr. WEBSTER. I have one other question. Well, I see Ms. Frankel here, so I will ask about the JAXPORT, Jacksonville Port, in Florida. There is a deepening study that is being done. Could you give me kind of the progress on that, and possibly what the current timeline looks like?

Ms. DARCY. For Jacksonville?

Mr. WEBSTER. Yes.

Ms. DARCY. It has already gone through the Civil Works Review Board, which is one of the last steps it goes to before it has to go to the Chief of Engineers for a final signature. And I believe JAXPORT is on schedule for this month. Yes, this month.

Mr. WEBSTER. General, could you elaborate on that? Is that true?

General BOSTICK. We have some more interagency work to do, Congressman, but we believe by the end of this month we will have it up to my office. And, assuming everything is straight, I will sign it. By the time it reaches my office, it is in pretty good shape.

Mr. WEBSTER. OK. Thank you very much. Yield back.

Mr. GIBBS. Ms. Johnson?

Ms. JOHNSON. Thank you very much, Mr. Chairman. I have four questions that I would like to submit to get the answers at a later

time, because I have got to run to another meeting. But let me thank the Corps of Engineers for their representation today.

With the continued drought throughout the western United States, it is more important than ever that the Federal agencies work together to assist States and local communities in addressing their needs, and it is equally important that Federal water agencies ensure that they are doing all that they can to enhance the resources within their authorities. And I do appreciate the efforts that the Corps has made in collaborating with the USDA and Department of Labor and other Federal agencies to address these needs.

But we have—and we have worked collaboratively in Texas for a long time to achieve some of this, but I do understand that the Corps of Engineers stores more than 10 million acre-feet of water for municipal and industrial water supply behind the multipurpose reservoirs it operates and maintains. And this is enough to meet the annual needs of 6.8 million households. A majority of the municipal and industrial water supply storage is located in reservoirs kind of throughout the southwestern U.S. And I have four questions that I would like you to get the answers to me later.

One, you know, some of your plans for working with these local communities, and how these multipurpose reservoirs west of the Mississippi, that is more than 1.4 million acre-feet to make sure this water is available. Right now it appears that it is not being made available. And I would like to know, you know, what the plan is to make this water available to these local communities.

And I will submit these questions, and would like to receive an answer within the next 3 weeks. Thank you very much, Mr. Chairman.

Mr. GIBBS. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Chairman, and thank you, Secretary Darcy, General Bostick, for being here today. I have a couple questions on a few different issues.

Number one, I just want to give you fair warning when you come back to this committee—I just talked about this subject with your St. Louis District—and it is a design flaw in lock and dam 27, the Mel Price Project, that is causing some damage to the Wood River levee system. And, as you know, our locals have put up their share of the funding to be able to upgrade their levees throughout the Metro East area to ensure that FEMA will again accredit those levees at certain levels, so that our costs to taxpayers do not continue to rise.

I have some concerns, as this project moves forward, with the estimated cost that it is going to take to fix that problem that has been caused by that design flaw. So I won't have you address it today, but it is something that I will be asking about in the future, as you get more information. And I appreciate the info that the St. Louis District has given me.

Also, as you are aware, there is an issue with the locals in regards to project labor agreements which are in the locals' provision that provided for the funding for—their cost share, and I know that St. Louis District is working with you to address that problem, too. And I would like continued cooperation and communication on that issue, too. But I want to change directions here a little bit. The

President's budget requests \$29 million for construction projects to halt the spread of Asian carp.

I know in my district along the Mississippi River and central and southwestern Illinois we have some innovative ways to deal with Asian carp. But I see that we already have demonstration barriers to keep the Asian carp out of our Great Lakes. And noting how they have already been constructed and how they are operating, what is this \$29 million funding request for?

Ms. DARCY. The \$29 million is not only for the continued operation of the barriers, but also to complete the construction of the permanent barrier. We had temporary barrier 1, then we had barrier 2A and 2B, and I believe this is the final construction for the permanent barrier 1. Is that right? Am I right, General?

General BOSTICK. The specifics are about \$12 million for barrier 1, and then another \$5 million for the backup generators that keep the barriers operational electrical-wise, and then O&M for the barriers is about \$12 million.

Mr. DAVIS. OK. What are the annual O&M costs of these projects, once complete?

General BOSTICK. I don't have that figure, but we can provide it to you.

Mr. DAVIS. OK. I would like to submit a copy of a letter that I, along with the rest of my delegation Illinois and Indiana, signed. It is on the GLMRIS study. It looked at eight options to control spread of Asian carp, and I want to note our concern with the recommendations in the study that involves some sort of hydrologic separation because of economic impacts.

I would ask unanimous consent, Chairman, to submit this letter into the record, and I would like to ask either General Bostick or Secretary Darcy. What do you plan to do with the GLMRIS report?

Ms. DARCY. Congressman, as you noted, the GLMRIS report came up with alternatives. We were tasked through the MAP-21 legislation to do an analysis of how aquatic nuisance species are transferred between the Mississippi River and the Great Lakes. In looking at that, we identified what invasive species were the most risk for that transfer between the two basins, and we looked at alternatives for trying to combat that transfer of the species. We came up with eight alternatives ranging from a no-action alternative to doing best practices to hydrologic separation.

All of those alternatives have been the subject of seven public hearings during the month of January and half of February. The public comment period has closed as of the 31st of March. We intend now to take those public comments, review them, and the next step will be to look at what it is on which there might be some consensus. You may be aware that the Great Lakes Commission is looking at this issue as well as the upper Mississippi, looking at what there might be a consensus as to how we would move forward in trying to combat this invasive species.

Mr. DAVIS. Thank you very much. I do want to commend the Corps, too, on I see that the Veteran's Curation Project is getting \$4.5 million. We share a common goal to make sure that our veterans get employment when they return home. As a matter of fact, the House in a bipartisan way passed the Hire More Heroes Act that I introduced just last week, and I see that Senator Blunt has

taken that cause up in the Senate. So I hope we can see some movement there. This important program has put our veterans back to work, and I want to note that 124 veterans have been trained and employed through the program in the St. Louis District Center. And I have one, last question for you. How can we leverage some existing dollars to get even more veterans trained through this program?

Ms. DARCY. I think part of the success of the program is the fact that these veterans are out in the private sector, as well as in Government working with the skills that they have. And these skills that they've achieved in 6 months, whether it is learning how to digitize, or learning how to operate camera equipment, I think that is where we can leverage, once the public sector realizes what value they bring. And, also, this program was a brainchild of our great employees in the St. Louis District.

Mr. DAVIS. Well great. Well thank you very much. I don't have any time to yield back to the chairman.

Mr. GIBBS. So ordered for your document to put into the written report.

[The information follows:]

Congress of the United States
Washington, DC 20515

March 21, 2014

US Army Corps of Engineers, Chicago District
231 S. LaSalle St. Suite 1500
ATTN: GLMRIS Comments, Dave Wethington
Chicago, IL 60604

Robert L. ...
IC-13

Dear Mr. Wethington,

We are writing in response to the Great Lakes and Mississippi River Interbasin Study (GLMRIS) that was released by the Army Corps of Engineers on Monday, January 6, 2014. The study looked at eight options to control the spread of Aquatic Nuisance Species (ANS), especially Bighead and Silver carp, collectively known as Asian carp.

As the study points out, Asian carp pose a threat to the economy and environment of the region, including tourism, biodiversity, navigation, and more. In spite of the potential harms, Illinois has successfully abated the spread of Asian carp for over a decade thanks to measures such as the electric barriers put in place in Lockport, IL in 2002. The study also finds that if no new actions are taken, there is a significant risk of Asian carp reaching the lakes after 25 years. This timeline is worth considering given that five of the alternatives will take at least that long to complete.

We want to voice our concerns on four of the study's containment proposals that involve some form of hydrologic separation, whereby the Great Lakes and Mississippi River basins would be separated by permanent physical barriers. Such a measure would have a profound adverse effect on Illinois, Indiana, and states throughout the region and might still allow Asian carp to reach the Great Lakes during construction.

The study shows that a hydrologic separation would cost tens of billions of dollars while taking an estimated 25 years to come into effect as a mechanism to potentially control the movement of Asian carp. A plan involving hydrologic separation would also require extensive and costly efforts to prevent flooding and water quality degradation stemming from the project. Even with a multi-billion dollar cost and a 25-year operational timeline, the Army Corps still cannot guarantee that Asian carp will not spread into the Great Lakes.

We believe that vigorous action is needed to control the risk of Asian carp, but we fear that any action that takes an estimated 25 years to implement will actually take much longer – the report acknowledges real estate acquisition, permitting, and a lack of timely funding could further slow construction – and involve a substantial risk of Asian carp reaching the Great Lakes.


In addition to the risk of delays, a 2010 study by DePaul University of hydrologic separation estimated that the impact on the Chicagoland area alone would be a \$4.7 billion economic loss over 20 years, with a \$582 million loss in the first year and \$531 million annually in the seven


years after. Additionally, a 2010 study by Martin Associates found that barge movements through the O'Brien Lock generate \$1.9 billion in economic activity a year and support over 17,000 jobs in Indiana.

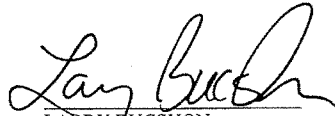
A hydrologic separation would stifle the area economy at a time when, as the study points out, barge and other commercial traffic on the Chicago Area Waterway System (CAWS) is projected to recover to its pre-recessionary levels by 2020. Furthermore, the economic inefficiencies and environmental impacts that would result due to a switchover from barge traffic – the average barge carries 80 truckloads of freight at a time – to overland shipping would be severely negative.

While a healthy dialogue on an issue requires consideration of all available options, it is clear that hydrologic separation involves significant economic costs to our region and taxpayers while potentially doing too little to stop the spread of Asian carp. We encourage the continued study of this important issue, especially new technologies that can protect the ecosystem from the spread of Asian carp. However, any solution that moves forward must be calibrated to offer the greatest efficacy for containment of the carp and the lowest regional economic impact achievable.


Sincerely,



PETER ROSKAM
Member of Congress



DAN LIPINSKI
Member of Congress

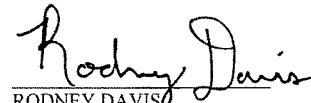

LARRY BUCSHON
Member of Congress

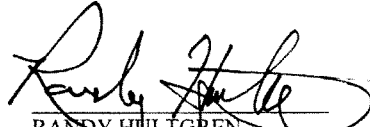

ANDRE CARSON
Member of Congress

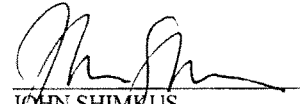

MARK KIRK
U.S. Senator


DAN COATS
U.S. Senator



WILLIAM L. ENYART
Member of Congress



RODNEY DAVIS
Member of Congress



 RANDY HULTGREN
 Member of Congress

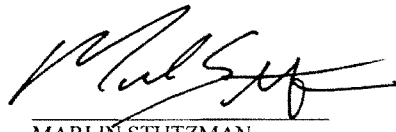

 JOHN SHIMKUS
 Member of Congress


 ADAM KINZINGER
 Member of Congress

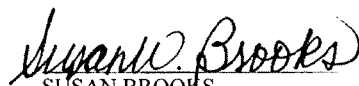

 CHERI BUSTOS
 Member of Congress

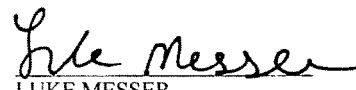

 AARON SCHOCK
 Member of Congress

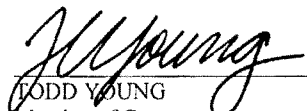

 JACKIE WALORSKI
 Member of Congress


 MARLIN STUTZMAN
 Member of Congress


 TODD ROKITA
 Member of Congress


 SUSAN BROOKS
 Member of Congress


 LUKE MESSER
 Member of Congress


 TODD YOUNG
 Member of Congress

Mr. DAVIS. Thank you.

Mr. GIBBS. And I believe your answer of the O&M is about \$12 million.

Mr. Frankel?

Ms. FRANKEL. Thank you, Mr. Chair. I want to associate myself with Mr. Garamendi, first of all to just thank you all. I have enjoyed working with the Army Corps in south Florida, and I don't think the public really understands how important your work is. And this is about job creation and protection of our natural resources. And I know it is a difficult assignment, and I have a feeling you would have preferred to come here with a much more robust budget.

A couple issues that I would like to just talk about with you, which pertains to, like many of my colleagues, I will be a little parochial and talk about south Florida. Although I think it will pertain nationwide, what I am saying. First of all, in terms of the construction projects and the harbors and the dredging, and trying to keep up with, now, these larger ships that are going to be on our seas and having the harbors to be able to accept these ships, and with the global competition means really literally across the country.

I know in south Florida, all through Florida, north Florida, west coast, thousands, thousands, thousands of more jobs and huge economic impact, so a little concerning to me that that construction budget for those kind of projects is down significantly. Also on the shore protection, it's funny. Florida, I think, you know, I used to visit Florida when I was a kid. And I used to think of the beach as just a place to get a sunburn. But I have learned, very quickly, that it is about protecting properties.

It is about a venue for a natural habitat, and a huge economic generator for tourism. And I see that the shore budget is down hugely from \$130 million, and last year's budget to now \$26 million. And \$130 million doesn't even include the Sandy money. So that is very painful for those districts that rely on, especially on tourism and the shore protection for the property values. And the last issue I wanted to mention was our very precious Everglades in Florida, which is a natural eco-system that was actually damaged by man.

It is not only the water system for millions of Floridians, which goes, of course, to our life. It is natural habitat. It is for a multitude of species and a huge economic generator also because of tourism. And that funding seems to be on a drift downwards, almost half. Seventy-five million dollars is less than half of what was in the budget 2 years ago. So I will just asked you one question, if you could just address each of those issues, you know, from your perspective.

Ms. DARCY. Thank you, Congresswoman. I will start with the Everglades, first. The Everglades budget, as you say, is less than it has been in the last couple of years; however, we are funding everything that we are capable of delivering in the Everglades in the 2015 budget. We were fortunate to get some ARRA money for Everglades projects, which helped us begin construction.

At the moment, there are also some authorizations in the Water bill that are going to help us with the financing of some of the cred-

iting provisions in Water projects and Everglades projects. I think all of that is a positive lean forward. We have broken ground on four projects in the last 4 years in the Everglades, so we are pretty excited about how the largest restoration effort in the world is progressing.

Ms. FRANKEL. Could you just talk about the shore protection money?

Ms. DARCY. The shore protection money, you did reference Sandy. We were able to use Sandy supplemental funds for impacts from that storm. That was one of the reasons it was down, but also at this stage, most of the renourishments are being funded, and some of them are being funded with carry-over money. And that's the reason that the beach renourishment number is down.

Ms. FRANKEL. OK. Thank you for sharing that with me and the panel, and I thank you, Mr. Chair. I yield back.

Mr. GIBBS. Mr. Meadows?

Mr. MEADOWS. Thank you, Mr. Chairman. Thank each of you for your testimony here today.

Ms. Darcy, I want to start with you. Twice the Supreme Court has made decisions, one with the *SWANCC* case, and the other with the *Rapanos* decision, and they've told agencies that there is a limit to the Federal jurisdiction under the Clean Water Act. And they have gone too far in asserting their authority. At least that is what those decisions would indicate.

Therefore, to be consistent with the Supreme Court decisions, any new rule would necessarily have to leave some of that to the State regulations, and some of the waters previously regulated by the Federal Government would be regulated by the State. So my question to you is what waters that were previously regulated by the Federal Government, prior to the *Rapanos* decision, now are definitely no longer under Federal Government jurisdiction? To your knowledge, is there any that have been relegated to the State?

Ms. DARCY. No, sir.

Mr. MEADOWS. So we have two Supreme Court decisions in terms of jurisdiction. And, really, that has had no effect from a rule-making standpoint at this point, to your knowledge?

Ms. DARCY. Sir, the *SWANCC* decision as well as the *Rapanos* decision, in particular. The *Rapanos* decision requested that the EPA and the Corps of Engineers do a rulemaking in order to make clear what the determinations and what was jurisdictional, what was in, what was out. And that's what we are attempting to do in this rule.

Mr. MEADOWS. So in your rulemaking, with that new rule-making, what would be excluded from Federal jurisdiction and passed over to the State? Is it defined enough where there is no—or will it be defined where there is no ambiguity in terms of what is Federal and what is State?

Ms. DARCY. We are hoping that's what this rule will clarify, but also, all of the exemptions that exist in the Clean Water Act will continue to exist, even if this rule goes final.

Mr. MEADOWS. Well, but therein is the problem. We now have two Supreme Court rulings that have taken place because of the ambiguity thereof. And, so, I guess with this new rulemaking, what can the States say? OK. This is definitely our jurisdiction, and the

feds say that it is no longer their jurisdiction; or is it still going to be a gray, murky area.

Ms. DARCY. I don't believe it will be a gray, murky area. The Clean Water Act, for purposes of getting a permit from the Army Corps of Engineers, is a Federal Department of the Army permit that would be required.

Mr. MEADOWS. Yeah. I have applied for them. I am very familiar with those. I have worked with the Army Corps for a number of years; and, therein is the problem, is where does that jurisdiction—because what I have found is that many times, whether it is the EPA or the Army Corps, they have a broad scope in terms of where their jurisdiction will be, and it many times overlaps with agencies in the State. And so there is competing areas of jurisdiction. So how are you going to help us clarify that so we have the efficiency within the Federal Government, and so that people who are applying for permits know that they go to you for this and they go to the State for something else?

Ms. DARCY. Well I am hoping that through the public comment period we will be able to clarify that, if it is not clear.

Mr. MEADOWS. Well, assuming that the public doesn't know it as well as you do, what would your recommendation be for defining that line so that we know? I mean you are familiar with the two Supreme Court cases. I can tell the way that you have talked. So how would you better define that to comply with those decisions, where you separate that jurisdiction between Federal and State?

Ms. DARCY. Well, Congressman, for purposes of an Army permit, that would be Federal jurisdiction over that water because of the dredge and fill requirements.

Mr. MEADOWS. But according to—you know. That authority has gone too far. Asserting their authority has “gone too far.” So—

Ms. DARCY. I think the authority, if I may, that is being referenced would be the authority to regulate a particular kind of water, not necessarily the State's authority to do so.

Mr. MEADOWS. So what waters would you not regulate anymore, as a result of those two Supreme Court cases?

Ms. DARCY. This proposed rule would continue to regulate those waters that have already been part of the Federal regulations.

Mr. MEADOWS. So you wouldn't relinquish control over anything?

Ms. DARCY. Well it would depend as to how the other waters is eventually defined. That's one of the areas, one of the seven areas within this proposed rule where we are seeking public comment in order to make a determination about what other waters would be jurisdictional under the Clean Water Act.

Mr. MEADOWS. We will submit a few other questions for the record. I would appreciate the Chair's indulgence.

Mr. GIBBS. Ms. Kirkpatrick.

Mrs. KIRKPATRICK. Secretary Darcy, thank you and your staff for meeting with me, listening to my constituents and funding really critical projects in my district. On behalf of the thousands of people and businesses that are going to be helped by that, I thank you. My question today is about delays. In the Water bill, the House version, we set a maximum of 3 years to complete various studies.

And, as you know, the Rio de Flag project is coming up on a sixth-year anniversary waiting for the updated, limited reevalua-

tion report. Do you have a status update on where we are with that? And then just would like to know your thoughts about how we protected against future delays in Chief's Reports and updated economics.

Ms. DARCY. I have some information on the Clay Avenue Wash Detention Basin.

Mrs. KIRKPATRICK. Yes.

Ms. DARCY. Is that the piece of Rio de Flag?

Mrs. KIRKPATRICK. Yes.

Ms. DARCY. The contractor will be mobilizing this spring, and we anticipate construction completion in the fall of 2014.

Mrs. KIRKPATRICK. OK. That is good news. Thank you. Any thoughts about how we can prevent future delays to Chief's Reports, either one of you?

General BOSTICK. One of the things I would offer is we have taken a real broad look at our portfolio of feasibility studies. When we started to review 2 years ago, we had about 600. We have that number down to about 168, and we have looked at which of these projects has a non-Federal sponsor. Which projects do we think we can actually find a Federal interest? And we brought that number down to about 160. Well over 100 of those are $3 \times 3 \times 3$ compliant, which is good news.

There is a small number, less than 10, where we are going to have to do waivers, because they can't get in under 3 years or \$3 million. And there are about 30 to 40 that are considered legacy projects, where it was just too far along for us to bring the feasibility report under 3 years and \$3 million; but, we think we are making great progress. And we are doing a lot of this internal to the Corps.

We are working with our interagency partners, but it is really going to take a team effort. Because a lot of decisions, as you know, are outside of our direct control, so we are working well with the interagency.

Mrs. KIRKPATRICK. Thank you. It sounds like you are making good progress. Congratulations! I yield back.

Mr. GIBBS. Mr. Mullin.

Mr. MULLIN. Thank you, Mr. Chairman. You know we have really learned to value the Corps in my district, especially, with our navigational channel that runs up. And we are able to have one of the largest inland water ports in the country because of the Corps and the navigational channel. And we understand the burden that is put on you with restraints as far as money being allotted to you through the budgets and through the idea that the repairs are in some critical needs.

And I know the Corps would like to get them done. So I appreciate the partnership that we have been able to work with the Corps, but don't always agree on everything. But I know that we definitely are trying to work together. And so, General, just to let you know that Colonel Pratt in Oklahoma has done a phenomenal job. Colonel Teague who proceeded him did a phenomenal job too, and we appreciate their willingness to work with us.

Ms. Darcy, we understand that the Corps is undergoing a rule-making on water supply. Is that correct?

Ms. DARCY. We are considering doing rulemaking on surplus water supply, yes.

Mr. MULLIN. I understand this has been going on for quite some time, so it is more than a consideration. You guys have been talking about it. We had your staff in my office, actually, last week. We had requested to meet with him; and, quite frankly, we have been trying to get this meeting for several, several months for, in fact, a big part of even last year, just to find out exactly what that rulemaking is, because we understand that you guys are trying to redefine the pricing structure of the water and try and identify if you have surplus water and what is the best use, how do you best use the surplus. Is that correct?

Ms. DARCY. Yes. The rulemaking we are considering would establish what a reasonable price is for surplus water. Under the Flood Control Act and the Water Supply Act we are required to set a reasonable cost for that; and, currently, we don't really have one. So we need to go out for public comment and to—

Mr. MULLIN. When is it you plan on going out for public comment? Because, if I understand, you guys have been meeting on this one particular topic for at least 8 months.

Ms. DARCY. Yes, and quite honestly, it has been longer than that.

Mr. MULLIN. OK. Well I was aware of it about 8 months ago.

Ms. DARCY. We are still under development within the agency, and I am not certain about what the actual timeline for releasing a proposed rule on this would be.

Mr. MULLIN. Here is my concern about this, Ms. Darcy. Underneath the latest example of the waters of the U.S.—the rulemaking, you know—we were assuming that was going to come up for public opinion, too, and we thought the States would have some opinion in that. And, what we did is we completely sidestepped the States, and there was no rule.

The rulemaking came out and the States were sitting there having to deal with it, which, I believe—if I'm not mistaken—that the 10th Amendment, that is what gave the States the rights, the right to understand and even have first shot at regulating their State. And so by you guys side-stepping and going right past them, well, how can we even trust that the rulemaking on this water pricing is even going to be taken into consideration?

You have been meeting for over 8 months, and yet you still haven't brought it up for public opinion. In fact, most people aren't even aware of what is going on.

Ms. DARCY. We have been meeting with stakeholders and those concerned.

Mr. MULLIN. Who have you met with? Because we have been trying to get a meeting for, like I said, 8 months, and you just came to my office last week, which I appreciate your staff doing, but I believe that probably was because of this hearing coming up.

Ms. DARCY. We have been meeting for over a year with other stakeholders, including the State of North Dakota and others who have been interested in this issue. And any rulemaking that we do would be a proposed rulemaking, which would have at least a 90-day comment period for the States and other stakeholders.

Mr. MULLIN. Going back to the waters of the U.S., are you going to work with the States?

Ms. DARCY. Yes, sir.

Mr. MULLIN. When are you planning on doing that? I mean if the rulemaking is already out, at what point are you going to actually allow the States to have input on their own property?

Ms. DARCY. It's a proposed rulemaking, and so there is a 90-day comment period for all stakeholders, including States.

Mr. MULLIN. OK. Real quick before I run out of time, existing permits on farmlands with the navigable waters, my concern is with the broad reach that you just took out a redefining sum of the streams or nonstreams that's going to be classified under the Clean Water Act, that farms are going to be caught up. And underneath the rulemaking when I read it, I understand it says existing permits aren't going to be affected. What about farmlands that are not currently having to get those permits.

Ms. DARCY. Congressman, all of the existing exemptions for farming, silviculture and ranching in the current Clean Water Act, those exemptions remain in place. In addition, we have done an interpretative rule with the Department of Agriculture and EPA, stating what additional farming practices would be exempt. Some of those farming practices have come into existence since the 1972 Clean Water Act. So we list what those exemptions will continue to be.

Mr. MULLIN. I appreciate it. Thank you.

Mr. GIBBS. Ms. Norton?

Ms. NORTON. Thank you very much, Mr. Chairman, and thank you Ms. Darcy and General Bostick. After a number of years we finally passed a Water Resources Development Act amidst a fair amount of self-congratulation, which I think was well-deserved. But now we are down to the hard part when we meet head-on the issue of funding in this bill.

I have a couple of questions on a formerly contaminated site for General Bostick and another question—these are brief questions—on the 17th Street levee. I very much appreciate General Bostick that after some concern in one of our communities about perchloric contamination in the groundwater that the Army Corps is going to dig a well to try to trace this contamination. They somehow have picked a spot that is in a park, a park that is partly maintained by the community with trees and other vegetation that the community itself has added.

I understand that the Corps has not made a final decision on where to place this well, as much as the well is needed, considering the size of the community and the fact that there are 53 wells, I understand, located in the area. And some of them are in roads. The community is asking that this well be put in a roadbed or other appropriate location, and not in a park, which according to all of their experts, will never be able to be brought back to its present site if the well is put there. I am asking you, General Bostick, if you would work with the community to find a mutually agreeable site for this well in Spring Valley, looking at roads, and for that matter at other nearby locations.

General BOSTICK. Rep. Norton, we have looked at this very closely. I am happy to continue working with the community to try to find the most agreeable location based on the technical analysis that our experts have done. I am informed that the ideal spot is

this location on the island, the public island that you are talking about. Other locations are in people's front yards and back yards.

Ms. NORTON. Well, obviously, we don't want that. That is why I said "mutually agreeable."

General BOSTICK. Right, right.

Ms. NORTON. And all I am asking is that you continue to work with the community if you don't want it in someone's back yard or front yard. You surely don't want it in the front yard of the community itself—

General BOSTICK. Certainly.

Ms. NORTON [continuing]. In a park that it is maintained.

General BOSTICK. We will look into it.

Ms. NORTON. Look. And I understand the technical difficulties. All I need is a back and forth with the community, because as the community sees a good faith effort, and that's all that's there, I know the ideal site. But an ideal site doesn't necessarily make it the best site for all concerned. So I appreciate your commitment to continue to work with them.

General Bostick, I wrote you, personally, a letter, after working a great deal of time with the Corps before you began the latest evacuation in Spring Valley. Because for the first time—and this community has been very tolerant—you understand that Spring Valley is a community of gorgeous homes and taxpayers who—because frankly of mistakes made by the Corps—have had their community built on without knowing it was a contaminated site. They have been doing work there for almost 20 years.

I appreciate how the Corps has cooperated with my office and with the community, since this contamination was discovered and since the Corps left twice and had to come back, because the contamination was not cleaned up. Now they are a really pivotal site. Across from the site is a home of a family that has two children, 1 and 5 years old. I asked if they could be temporarily located. You denied that this family, I think, for reasons that perhaps are understandable, were so concerned that they have rented an apartment on their own.

Now your office said it is going to take 6 months longer than planned. Imagine. The community now hearing that there is more extensive debris across from their own home, and just last week alone you found intact glass containers in large amounts at the American University experiment station. This family is paying rent now on top of a mortgage in order to protect their children.

General Bostick, do you agree that children of this age, 1 and 5, are more susceptible to diseases, including toxins, from toxins and glutens, that may affect their brain and immune system at this developmental stage? Do you agree that that is a concern?

General BOSTICK. Representative, I am always concerned about safety. I am not a doctor, so I couldn't comment on whether they are more susceptible. But I will tell you that we are very concerned about safety. We have taken all the precautions, not only within the Corps, but in talking to other organizations to make sure what we are doing is safe and we made the determination that we would not be able to support the request to relocate the family based on—

Ms. NORTON. General Bostick, in light of the fact that the time is now been elongated, you found even more debris than you expected. Would you take another look? Would you take another look at this matter?

General BOSTICK. I will take another look.

Ms. NORTON. Thank you very much, General Bostick.

Mr. GIBBS. Ms. Capito.

Mrs. CAPITO. Thank you. I want to thank you both for being here. I appreciate your service to the country. I know your areas of responsibility are very difficult. We have heard a lot of discussion about the Corps along with the EPA redefining, our new regulations to define the waters to the United States. And this definition would expand those waters to regulations permitting under the Clean Water Act.

The Corps' ability to consider applications for 404 permits right now is a huge issue in my State of West Virginia. The Huntington Corps does a great job, but they are really stretched. And my concern is that we have a professional staff and an experienced staff in West Virginia and around the country who are working hard to consider these permitting applications that we have right now.

If you are expanding that definition, my concern is in your budget request you are requesting flat funding of \$200 million for the regulatory program. We have a huge backlog and a lot of waiting periods before we are able to satisfy or to obtain permits. How are you going to deal with this enlarged playing field, so to speak, of more 404 permits when already we see a lot of frustration with the backlog that currently exists. Madam Secretary?

Ms. DARCY. Thank you, Congresswoman. The proposed rule will not be finalized for several months, so the potential for the increase is a little bit of a ways away. However, you know, within the regulatory program, we are going to have to look at what increased demands there will be if the rule goes final and have to adjust as best we can within our limited budget.

Mrs. CAPITO. So, basically, what you are saying is you haven't really accounted for that yet, for the expansion, because you know you are going to anticipate a greatly expanded application procedure. Correct?

Ms. DARCY. We anticipate an initial increase in some permit applications; however, we believe that the certainty that's going to result if this rule goes final will help us down the road, because people will know. The applicant will know what's jurisdictional and what is not and what is going to need a permit, and what will not. And, right now, there is so much uncertainty about that, that has created a great deal of increased work.

Mrs. CAPITO. Well I guess I was speaking more about ones that already know they are within the jurisdiction and the backlog that we are seeing in the time that it takes to work these. And some of them are very, very difficult, obviously. So, you know, I still think the permitting process is going to become much more bogged down in the future with this new, expanded definition that you are trying to seek. Would you agree with that?

Ms. DARCY. I think initially we may see some increase in the request for applications, but I think the long-term impact is going to be increased certainty. And the amount of waters that are cur-

rently covered are ones that will be covered, but the certainty that this rule will provide will help us. You are right. There is probably going to be an increase initially.

Mrs. CAPITO. Well we are going to have to speak to the certainty issue. I mean we saw what has happened to the permit that was awarded and went through the procedure with the Corps with the Spruce permit that was overturned. I don't think that is really leading us to much certainty in the area of the country where I live right now.

What about in terms of what kind of considerations when you are putting forth the rule? We have, obviously, a lot of manufacturing, as we do across the country. We have Essrock in Martinsburg, who has voiced concerns, and I am concerned as well. Have you looked, as you are expanding this definition, have you looked at all at what the job impact would be, the manufacturing job impact would be? Is that part of the consideration when you are looking in this jurisdictional role that you put forward?

Ms. DARCY. Congresswoman, there was an economic analysis done considering what the administrative costs would be as well as what the benefits would be of this rule.

Mrs. CAPITO. So that would be the jobs that it would cost to administer the rule. Is that what you are saying? Or, does it say even if certain folks are now going to be pulled into this with a lengthy and expensive process, what that is going to do to the manufacturing base or what it could do to their ability to expand their manufacturing jobs? Is that a consideration?

Ms. DARCY. I would have to—I am not sure.

Mrs. CAPITO. OK. OK. General, just a quick question. We have a project in West Virginia with a coal company on the King Coal Highway, and the Corps has worked very hard to try to work with the permitting issue there to try to do a public-private partnership, which would result in the construction of a very difficult piece of road while satisfying the definitions of the Clean Water permit with the Corps. Are you encouraging public-private partnerships through the Corps? I mean we are in leaner times now. Think it makes a lot of sense? Is that an initiative the Corps is taking on?

General BOSTICK. Absolutely, Representative. In fact, this month I have a meeting with several prominent leaders in public-private partnership, both in Government and civilian CEOs that are gathering together to try to determine how we can do this more within the Corps.

Mrs. CAPITO. I would encourage that and I would encourage this project too to be moved forward, because in southern West Virginia, it is much needed. Thank you so much.

Mr. GIBBS. Mr. Sanford.

Mr. SANFORD. I thank you, and I thank you for what you do. I am going to try to run very quickly through five questions in 5 minutes. So it will be a little speedy here. First, just to check up, as far as I know, the Post 45 Charleston Harbor Feasibility Study is on budget and on time. Anything I need to know new from you all's perspective on that one?

Ms. DARCY. No, Congressman, other than the fact that it's one of our studies that we look to as being compliant with our 3 × 3

process, which was referenced earlier. We cut the time off this study. We cut about \$8 million off of it. So it is on track to go.

Mr. SANFORD. Good. There have been, I guess, there was talk within the WRDA bill on authorization and still allowing for construction. In some instances, I think it was touched on a manager's amendment in WRDA, but it's still a little bit ambiguous and I didn't know if you all were prepared to issue guidance on that particular front, wherein you're in that sort of interim time period and not quite sure what comes next.

Ms. DARCY. I'm not sure of your question. Is it what is going to happen to projects between authorization and the passage of a WRDA bill? Well, currently, if a project is not authorized in WRDA, we can't budget for construction. And, as you know, in the House bill, it's—

Mr. SANFORD. Well, I guess what I am getting at is if a project's been authorized, but not yet appropriated, and if there are backup State funds that say, look. We have a backup in terms of funding sources. Is there any way we continue to move ahead in anticipation of appropriation?

Ms. DARCY. Yes, sir, if it is an authorized project we can accept contributed funds. We can accept advanced funds or accelerated funds, if we have a cooperative agreement with the local sponsor.

Mr. SANFORD. I will follow back up with you, because there is some level of ambiguity, at least being read to the TVs back home on some of that based on some of what's going to Charleston. I am going to follow up with specific questions on that.

On the 3×3 going back to what you mentioned just a moment ago, at times, though, EPA seemingly will still gum the works up. So it is good in theory, but at times in practice, I guess—maybe that's why Charleston stands out—is the project that is working on that front. Is there anything that can be done to further expedite that process when some Federal agencies come up and maybe slow up what you guys are working on?

Ms. DARCY. We are trying to, in part through the $3 \times 3 \times 3$ as well as with other Federal agencies. The earlier we can work with the other Federal agencies in the project development process, the easier it is going to be so that at the end of a study process, we are not confronted with problems or concerns that we didn't anticipate that may in some ways slow it down or in some way derail the process. We are trying to do that.

Mr. SANFORD. I will come back with further questions on that, because I am trying to stay within my prescribed 5 minutes. Two other quick questions, though. One is going back to macro. There has been some concern, I guess for some time, on cost-benefit analysis within the Corps and a belief that, you know, costs are understated and benefits are overstated. I think there was a Pentagon inspector general report to that effect. There was a GAO report to that effect. Is there anything that you all would point to in terms of changing that process or moving a foot within the Corps to further calibrate based on those two studies?

General BOSTICK. We don't have, necessarily, another study that we are looking at. But I would say that we are looking at budgeting and how we budget as part of our overall civil works transformation. And within that analysis of how we budget, I think we

will find methods to become more efficient, effective in the BCR. But we don't have anything specifically, we can tell you today.

Mr. SANFORD. I will follow up with additional questions. Here is my last one though in my 5 minutes, which is going back to what you just said on budgeting and better budgeting. As I understand, the Corps owns about 7 million acres. I don't know if that is true or not, but that is what I have been told. It is the fourth largest agency out there in terms of land holdings in the aggregate.

One, is that true? But, B, and maybe that's not the right place to look, if you look at the overall numbers of the country. We have a 5-percent fiscal gap, which means for agencies ultimately there is a much bigger gap in getting to break even. If you were to point to the least efficient program that you administer or the biggest cost savings that you think could be found within the Corps, it would be what?

Ms. DARCY. That's a tough one.

General BOSTICK. I think we would have to come back to you on that. We try to focus on the programs that are highest priorities and spend a lot of time putting our energy and our money there. But we would come back to you on what we think might be one we're probably not spending as much time on and not as effective to the good of the Nation.

Mr. SANFORD. I would appreciate that. Thank you for your time.

Mr. GIBBS. Ms. Hahn.

Ms. HAHN. [Inaudible.]

Mr. GIBBS. Turn your mic on.

Ms. HAHN. Thank you, because I am saying something nice about you.

Mr. GIBBS. You used up your time on that.

Ms. HAHN. Yeah, I know. But thank you for your opening remarks about the Harbor Maintenance Tax. And, Assistant Secretary Darcy, thanks for being here; General Bostick. I do have a statement I am going to put into the record about Compton Creek in Los Angeles. I understand in this budget the Compton Creek project will be fully funded.

I just wanted to ask a couple of questions about the Harbor Maintenance Tax. I just would like to know from your point of view why the administration is not advocating for full utilization of yearly receipts. We know that we will get about \$1.7 billion in yearly receipts, and the President is advocating for just \$1 billion to be spent.

So that's \$700 million left on the table, yearly. So I just wanted to know from your perspective why do you think we are still not putting forth the full utilization of the Harbor Maintenance Tax.

Ms. DARCY. Congresswoman, within the scope of the Corps of Engineers budget, the \$1.7 billion that you referenced within our \$4.5 billion-dollar cap, \$915 million from the fund is all that we are going to be able to use at this time.

Ms. HAHN. I remember in one roundtable that we had where I asked you if we fully utilized the receipts of the Harbor Maintenance Tax how long would it take to have all of our ports in this country fully dredged to their authorized level. And you actually threw out a figure of 5 years, which is, again, something we should look at in terms of how do we keep our ports competitive and main-

tained. And, you know, particularly with the Panama Canal coming online, I just believe this is one piece of our economy and job creation that is right there within our grasp, and I am still going to continue to advocate for that.

Let me ask you what the administration's view is on more equity for our ports. One of the things I've also tried to advocate for is a guaranteed minimum that would come back to each port. The ports of Long Beach and Los Angeles contributed about \$263 million annually, and we get back about \$263,000. So I know we are obviously a donor port, and I believe in the seamless network of ports in this country, however, would like to see a little more equity as we go forward.

I would love to see a 10-percent guarantee back to the ports where the tax is collected. What is the administration's view on more equity going forward?

Ms. DARCY. Congresswoman, the Harbor Maintenance Trust Fund, as you know, is an ad valorem tax on imports, and that money all goes into the overall operation and maintenance of the entire system. There are some ports that don't need as much operation or maintenance dollars as others—and so it is the need nationwide that we have to look at in making the decisions on how the funds are going to be apportioned. And it is a donor-donee sort of similar situation like that.

Ms. HAHN. But you look at the ports of Long Beach and Los Angeles. I like to call them America's port, since 44 percent of all the trade coming to this country comes through those ports. If you want to talk about projects of national significance, it is certainly the work done at those ports. So I still think that would be something we ought to aim towards, and, sure. I'd like to see 50 percent go back to the ports where it was collected, but I know that is unrealistic. But something like a 10-percent minimum guarantee, I think would be important, particularly—the next question I'm going to ask—if we can work on an expanded use of the Harbor Maintenance Tax, particularly for those ports who have already dredged to their authorized level.

What is your view on using some of that money for expanded uses within the harbor?

Ms. DARCY. It is currently under law limited to just operation and maintenance in the water—no port side development. I think there are other programs within the Federal Government, things such as TIGER grant program within the Department of Transportation that can be used for those kinds of additional enhancements to the port.

Ms. HAHN. But, again, that is another competitive process, again, when we are already collecting the tax from these ports and the ports that have already done their dredging; seems reasonable that they would be allowed to use this money for other uses within their ports. Of course, I am advocating for the last mile, as well. I think if we want to talk about why cargo is diverted from some of our ports, it is because of landside congestion, and not necessarily what is going on within the harbor. How do you feel about that?

Ms. DARCY. In order to expand the usage of the tax, legislative direction would be required for that expansion to occur.

Ms. HAHN. I mean, let's face it. The way we stay competitive in this country is for that cargo to come in and out of our ports as quickly, as efficiently, and as effectively as possible. That cargo needs to come off the ships, onto the rail or trucks and to their intended destination quickly.

Mr. GIBBS. Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chair, and being the last one, maybe I will get in a few words here.

Assistant Secretary Darcy and General Bostick, thank you so much for your appointees to the L.A. area in the last—I don't know—10 years that I have been very active with the Corps. The Colonels Compton, Toy and Magnus and their Deputy Van Dorf, has been excellent to work with.

We also want to say that we have been very happy that you are now looking at water conservation measures in the dams, which are critical to our Los Angeles area—since the drought is really hitting us more than we thought it could for the last several years—in preparing for the sediment removal that will allow for the capture of more rain, since we have very little in southern California.

I will note that our water agencies from control districts and the local leaders have been urging the court to take measures for many years. And now that you have adopted some emergency conservation measures in that general area of Los Angeles, we have picked up 22,000 acre-feet of water conserved. We should be doing more of this, and that is hopefully where we can lead to being able to have the Corps' mission include the water retention and the sediment removal from the dams to capture more, and maybe even raising the levees and expediting the process by which we check the dams' leakage, et cetera.

As you well now, we have narrows Whittier Narrows that we have been working on for about 10 years. I would like to have an idea of where the Corps is on the Whittier Narrows and the Santa Fe Dams with contributed funds. If you remember, there had been a time where they wanted—I have an agency that wanted to pay for a review, and there was no way to be able to get the Corps to accept that funding. So now that we have that ability and it is the contributing funds agreement for water conservation feasibility studies and more short-term water conservation deviations.

General BOSTICK. At the local level there is agreement to study the water conservation for accelerated funds and they are negotiating that now.

Mrs. NAPOLITANO. And when can we see some timeframes so we have an idea. Because we have so very little water, so very little rain, the more expeditiously we move towards being able to capture that, the between off we are going to be addressing the drought in southern California.

General BOSTICK. I will follow up with the timing. I really don't have the details on that.

Mrs. NAPOLITANO. I would really appreciate it. The other area is the RFPs for Open Bidding Process to removal of the sediments of the dam, especially, particularly, the Santa Fe dam, because it is downstream. And if they are able to remove the sediment, they would be able to capture more water in the dams where the water is, so more able to be stored. But will the sediment have enough

value to pay for the removal? If it doesn't, then will the Corps be able to pay for that removal of the pile.

General BOSTICK. We will finish the request for proposal. That will be done this month. But in terms of funding it, due to funding limitations the sediment removal was not included in the 2015 budget.

Mrs. NAPOLITANO. It is not included. So that won't happen then for this year or next year.

General BOSTICK. That is my understanding.

Mrs. NAPOLITANO. And in the meantime, we are not preparing our areas for the drought, or at least conserving that water. Is there a way we should be able to move up and expedite the process? And I know funding is an issue.

General BOSTICK. We can always look at methods for trying to accelerate the process. I think in the end, in this case, it is going to be a question of funding, and we have got to really go back and take a look at once the RFP is completed, in future years, something could happen. And in the interim, I'd say we continue to work for the local sponsors and the local communities to see what options we can develop together working forward.

Mrs. NAPOLITANO. Well I look forward to sitting with you, and then figuring out, because there are some local partners that are interested in helping in other areas, and this could be one of the things that they would be very helpful in being able to address the funding issue. And then there is an area where, apparently, the sediment is going to be able to get a buyer, if you will. We are not sure that our fee, I believe, is being developed by them, or actually submitted by them.

They may have other folks submitting these RFPs, but by the same token, we do not know whether they are going to be able to have enough ability to have that sediment pay for itself. And there is the issue of an area that the Corps owns, a particular area that develops all this aggregate, if you will, is willing to make a deal, wanting to sit down with the Corps to see if they can exchange these areas of helping each other by allowing them to mind that area and being able to help the sediment removal for use by them. And I am not sure, exactly.

I'd have to sit down with you, if you don't mind, and go over this. And I think, Ellen, you know about that. How do we work with the entities that are willing to help find a solution, if you will, to address some of the issues that are inherent in that particular area?

General BOSTICK. I think in this day and age we are all looking for different opportunities and different ways to think through solving these complex issues that we have. And if we've got willing partners that think they can purchase the sediment—use it for different reasons—and if there's a different type of funding mechanism that we could work with the Congress in getting the approval on, then we would be open to suggestions on that.

Mrs. NAPOLITANO. But the approval has to come from Washington. It can't be at the local level, and that is also a big delay in getting that processed. Am I correct?

General BOSTICK. Well if it's going to be an authorized project and using Federal dollars, then it would involve the Congress and folks in Washington.

Mrs. NAPOLITANO. Thank you, Mr. Chair. I'd like to submit some of the questions in writing.

Mr. GIBBS. Thank you, representative.

Mrs. NAPOLITANO. Thank you.

Mr. GIBBS. Secretary Darcy, I want to just follow through here on a couple of things. So, first is when you are dealing with the rule, the Supreme Court decisions on the navigable waters in the United States or waters in the United States, it is quite clear in *Rapanos* that the Federal jurisdiction is limited under the Clean Water Act, and essentially the Supreme Court said that you need to pull back.

And in your exchange with Congressman Meadows, talk about clarity, you know, it is muddier than it has ever been, if you are interested to do that. And I would also imply to you that Corps—we have budget constraints and budget realities, and we are trying to figure that out. And I know the ranking member's comment about the budget restraints and the other members', but I know the two generals sitting next to you there, behind you, are probably a little nervous, because they don't need any more work to do.

And my question is on this regard, it is implied that the Federal Government has to move into these other areas because the States aren't doing it. And that's kind of the implied, that I am getting from that, is because the last Congress, when we had State EPA directors in here, we heard so much about how frustrated they are, and they are from both sides of the aisle about the overreach of this administration and this EPA. And so your ability to not answer Congressman Meadows about what waters would be relinquished of Federal jurisdiction in regard to the Court order, basically, I have got real concerns about that.

So, if you would, quickly answer the question about what the States are doing and why the Federal Government thinks they have to get more involved in these other waters, because to me that looks like a big power grab by the Federal Government.

Ms. DARCY. Congressman, we are not extending the reach of the Clean Water Act to new waters outside of what is being required to have a permit.

Mr. GIBBS. But if you are going to define what is significant nexus is, you have the ability to extend that, but by how you define what significant nexus is.

Ms. DARCY. The significant nexus determination would need to be made on a case-by-case basis on other waters. That significant nexus determination as well as what other waters would be covered by the Clean Water Act as part of what the proposed rule is asking for public input on and public conflict.

Mr. GIBBS. Well, to me, anyway, this issue is it is becoming less clear way of removing. So that is my word of caution on that. I want to move on to another area. We have another issue, and hopefully you are aware of up in Cleveland, Ohio, and the dredging of the harbor port there. In the Omnibus Appropriation bill, Congress appropriated \$7.8 million to get the dredging done. Dredging is scheduled to be done here in a month or so. It is very important that it gets done.

We have one, large steel company that is bringing in lighter loads of iron ore, and they won't be able to get enough supply in

there. And there is a possibility that will shut down their operations, and nearly 2,000 jobs will be idled. And I guess my question is we are having a little back and forth about how the EPA and the Corps—the dredging that occurs there every year—it is going in the CFF, the landfill, because it has got metal, heavy metals PCBs—you know—things that you don't want to put out in the lake, apparently. My first question is why did the Corps only bid open lake disposal, when they should have known that it is highly likely that they won't get the 401 certification from the Ohio EPA?

Ms. DARCY. Congressman, we have requested, as you say, the 401 water certification from the Ohio EPA. We have in other places within the State of Ohio and in Lake Erie. We have done open water disposal for Toledo.

Mr. GIBBS. Yes, Toledo, but I don't believe that the—I think it is more of a phosphorous issue, a nutrient issue. I don't think the Cuyahoga River, the river that caught on fire four times a few years ago, you know, there's been apparently issues with the PCBs and heavy metals. And I think the issue that I am hearing, the discrepancy between two agencies is the protocol that was used in the sampling. So I guess what I am trying to say is dredging has to happen. OK? And the two agencies have to figure out what's best.

Now, we know there is at least a year of capacity in the CFF, the landfill. And then also the Port of Cleveland has spent \$4 million to work on another disposal site under the section 217 authority. And, you know, by the Corps moving forward with open lake disposal proposal, are they automatically saying no to moving forward with the other disposal area for when they get past this next year?

General BOSTICK. Chairman, we've done our meeting with the experts in Cleveland today. We believe there is a real science to this, and our scientists have looked at this. What we like to do is collaborate with the team in Cleveland, and we would like to come to some mutual consensus. We know we have to dredge. We know we are funded for that, and we know the impacts if we don't. But we would like to understand the differences of opinion, and then try to find a solution to resolve it. But, as you say, we are coming to a point where we have to make a decision because we are running out of time in these confined disposal facilities. And, as you say, within a year or more, we will not have any room.

Mr. GIBBS. Well, what is going on with the other site, where the Port Authority has spent \$4 million to, I think, develop another site under 217 authority? Do you know the status of that?

General BOSTICK. I am not aware of the details on that. But I will take a look into it.

Mr. GIBBS. I think everybody is trying to move forward, and we have to move forward, and—but we want to also be careful that we protect the lake out there.

The other area of that that I just don't really understand, either, we are dredging 5 feet of sediment out every year, at least 5 feet. And is there anybody or—looking at how all that sediment—that seems like a lot of sediment getting into the harbor there—to mitigate the flow of sediment, or is it just the shoreline itself collapsing in? I mean that seems like a lot of sediment, and then still be heavy with, you know, hazardous materials. It seems like, to me,

that there ought to be some other mitigation efforts, and I am puzzled, I am a little bit puzzled by that.

General BOSTICK. I can't talk to the amount of sediment, but in terms of the quality of the sediment from our perspective, I know we are in disagreement with some on this, but 80 percent of it we feel is clean enough to put in open water.

So, I can have our guys look at why there is continued sediment, but we have been at this for about three decades now, and in that area, put in about a billion dollars' worth of money in confined disposal facilities. And we are at the point where we must make a decision. In view of that, I think we are going to continue to work with the locals, and I am sure we can find a solution that will move us forward in the right way.

Mr. GIBBS. Well, I just want to impress on you the importance that dredging stays on schedule, and we need to get this worked out with how EPA—and also, you know, protect our vital resources there in northern Ohio.

My time is up. I just had—want to make a couple other quick comments, since we are just the only ones here. You know, the permit revocation, the Spruce Mine issue, 404 permits, have we seen an increase of 404 permits, applications? And have you seen—what is the status? What is going on with that?

Ms. DARCY. Are you asking about 404 permits regarding surface mining?

Mr. GIBBS. Just—

Ms. DARCY. Or 404 permits, overall?

Mr. GIBBS. In general, because I am a little nervous. I am disappointed that the U.S. Supreme Court didn't take this up, because I think it sets a bad precedence, because my understanding, the permit, you know, was revoked, not vetoed. You know, the EPA has authority to veto permits during the process, but they revoked the permit 3 years after it was approved, after the entities, you know, invested hundreds of millions of dollars to start the operation up. You know, that sends a bad precedence about certainty.

And so, I am very concerned about that. And if we—that is why I think the Supreme Court should have took it up. And so now, you know, depending on what the status is on this permitting process, Congress might have to take it up.

But I guess I am asking, you know, what the status is of 404 permits. Have we seen more, less? And how many are pending?

Ms. DARCY. I would have to get back to you on that. But do you want, like, in the last year or two, or kinds of permits, or just a 404, overall? We can get you that information.

Mr. GIBBS. We will talk about that. But I am really concerned about that, because it is—I am also concerned that, you know, people might not even be applying. It is stifling economic activity, because the uncertainty of being shut down, even though they weren't in violation of their permit.

And, as I recall from our previous hearings last Congress, the State of West Virginia, EPA, and I think even the Corps themselves, said they weren't in violation of the permit. So it was more of a political agenda.

So, Mr. Bishop?

Mr. BISHOP. Thank you very much, Mr. Chairman. I just have a couple of things with respect to the Clean Water Act and the proposed rule.

First off, I think words matter, and I think accuracy matters. Several of our colleagues have spoken today about the rule expanding the definition of waters covered under the Clean Water Act. Is it not more correct to say that what the rule seeks to do is clarify the definition of waters under the Clean Water Act?

Ms. DARCY. That is correct.

Mr. BISHOP. OK. And the way this process is working is standard, is it not? I mean putting out a proposed rule, and having a 90-day public comment period, and then incorporating those comments into a final rule, that is how executive branch agencies conduct their business. Is that not correct?

Ms. DARCY. That is correct.

Mr. BISHOP. OK. Now, Mr. Meadows asked some questions regarding which waters previously covered by the Clean Water Act would not be covered once the proposed rule is finalized. And isn't it more correct to recognize that at this point there is no way of knowing the answer to that question until the rule is finalized?

Ms. DARCY. That is correct.

Mr. BISHOP. OK. So this is not a power grab. This is not the Federal Government expanding its reach. This is the Federal Government responding to a Supreme Court ruling which instructed the appropriate agencies to clarify which waters would be covered and which would not be. Is that correct?

Ms. DARCY. That is correct. It would be a rulemaking, was—

Mr. BISHOP. OK. So what I guess I would hope is that we would let the process work its way out, and that all of us will withhold our judgments with respect to whether the proposed rule—and if it becomes a final rule, whether that is good or bad, whether it expands or contracts. We should withhold our judgment until those processes work its way through. Is that—

Ms. DARCY. We are hoping the process will get us to there.

Mr. BISHOP. OK. Could you just talk to us a little bit about how you see the process going forward? I mean you are going to be assembling, I would imagine, an enormous number of comments.

Ms. DARCY. We will be. We will also be doing some outreach with locals and stakeholders as to their reaction. The public comment period is 90 days. Anyone can comment on the rule. Either by Web sites—

Mr. BISHOP. OK. Mr. Mullin raised some, I thought, legitimate concerns about the extent to which States will be involved. States will be involved, correct?

Ms. DARCY. Yes, yes.

Mr. BISHOP. OK. All right, Mr. Chairman, I am going to yield back. Thank you very much.

Mr. GIBBS. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Chairman. And just following up a little bit on some of your questions, and—I really appreciate, again, both of you being here today.

I have concerns, too, like many have raised, in regards to the Clean Water Act, and how this—how your final rule is going to define navigable waterways. I have tremendous concerns, especially

in light of the fact that it seems that, in one instance, the DC Court of Appeals has allowed the EPA to basically veto one of your already-existing 404 permits. And they retroactively vetoed that permit.

If—you know, what, if any, guidelines or agreements exist right now between the Corps and the EPA which would describe the circumstances or the criteria of when the EPA will veto a Corps-issued 404 permit?

Ms. DARCY. Under the Clean Water Act, the EPA has the authority, under 404, I believe it is—I don't have the right citation—to veto a Department of the Army permit with whatever just cause they feel is right from their perspective.

Mr. DAVIS. So the EPA—

Ms. DARCY. That exists in current law.

Mr. DAVIS. Right. The EPA currently has veto power over existing 404 permits that you are permitting.

Ms. DARCY. They do have that authority.

Mr. DAVIS. OK. Throughout this process now that we have discussed at this committee, are you going to develop, in conjunction with the EPA, any guidelines of what would constitute the EPA's ability to come in and veto an existing permit that has gone through a review process?

Ms. DARCY. The proposed rule, Congressman, does not address the veto authority of EPA. It addresses what waters will or will not be covered—

Mr. DAVIS. Will the Corps of Engineers be open to an addendum to any rule that would allow some guidelines to be put forth, so that the EPA cannot veto work that you are already doing?

Ms. DARCY. We are always open to conversation and collaboration with our sister agency to make the process more efficient. And I think that is always something that we should be open to.

Mr. DAVIS. OK. Well, I appreciate that. And, obviously, you see a lot of concern from many Members, both sides of the aisle, on how a navigable waterway is going to be defined. We have issues. And I just met back in a room with agricultural leaders who are in the livestock industry. They are concerned about issues that we are facing right here, talking about with you. These are concerns that are not going to go away until the final rule is issued. And, even then, I doubt that they go away. I doubt that we are still going to have some concerns about what the final definition is.

So, I will move on. General Bostick, I have some time left. I wanted to get to Olmsted. Olmsted, obviously, is in my home State. I have toured the project in its infancy. Obviously, as you are, as many are, we are disappointed in the cost overruns and the continued delays. With that in mind, how much do you think the Federal Government is going to have to invest in rehabilitating lock and dam 52 and 53 because Olmsted has not come online to make them go offline?

General BOSTICK. Congressman, I don't have the exact figures on lock and dam 52 and 53. I do know that those are in very bad shape, very poor shape, which is why Olmsted is our top priority. We are about 60 percent complete on Olmsted, and the balance to complete for that is about \$1 billion.

Mr. DAVIS. And there is \$126 million in the President's budget for Olmsted, correct?

General BOSTICK. [No response.]

Mr. DAVIS. Yes, it is. I believe that is correct. Or \$160 million, I apologize, \$160 million is in the President's request, half from the Inland Waterway Trust Fund, and half from the hardworking taxpayers of this country, too.

With Olmsted, do you think that the public-private partnership language that is actually included in the House version of WRDA where we authorize 15 projects that could address inland waterway issues, do you think finishing Olmsted could be an option through a public-private partnership?

General BOSTICK. You know, I am optimistic, so I think anything is possible if you put your mind to it, and you have got the support of the people involved.

That being said, we have a long way to go with public-private partnerships in the United States. I met with a group of CEOs, and one of them told me he has done 600 public-private partnerships; 5 of them have been in the United States. So there are a lot of things that we need to work on, from a legal aspect, from a cultural aspect, from a profit aspect, in order to make public-private partnerships work. But they have been working on some small-scale efforts across the country.

So, I wouldn't count it out, but I think we have got a long way to go.

Mr. DAVIS. Well, I appreciate your optimism on that, and I agree with you, that many countries that are not the United States still build infrastructure projects, and they don't have Inland Waterway Trust Funds, they don't have Harbor Maintenance Trust Funds. They use public-private partnerships to do that. And I want to continue to make sure that the Corps is willing to take into consideration new and innovative ways, so that we can build our infrastructure.

I mean, as somebody who represents the Mississippi River, I have a tremendous concern when 17 years ago we picked an option to upgrade our water infrastructure along the Mississippi and Illinois Rivers, and we have yet to do so because we have projects like Olmsted that are still backlogged. So I hope we can work together in some new and innovative approaches to begin that process.

And I also want to commend this committee for making some regulatory changes in WRDA that will hopefully speed up the regulatory process, and save taxpayers billions, and also get the Corps of Engineers to the point where we are building these projects, rather than talking about them.

General BOSTICK. In fact, Congressman, this month I have a panel of experts coming in, both academic and business leaders including one of these CEOs that I mentioned, and the topic is public-private partnerships. So we are looking for opportunities to do the financing when we know that the Government cannot pay the full bill for these projects.

Mr. DAVIS. Well, I appreciate your willingness to do so, and I would ask that you keep in communication on the progress of those discussions, on P3s.

And I would ask you one last question. Do you anticipate rebuilding any other projects in the wet?

General BOSTICK. Really, I am not thinking about that at this time. I can't say that it would never happen again, you know, but I think at the time, some of the best minds that we had worked that and came up with that decision. So I have not gone back to question it. But currently I am not thinking about it.

Mr. DAVIS. Well, I will ask it again the next time you are back, sir. Thank you very much for your time, and I yield back.

Mr. GIBBS. What was always amazing about that, when I got this job and I found out that the two locks were built in the dry, and the dam couldn't be—it was built in the wet, it kind of blew me away when they talked about the seasonal, 50 feet—you know, but they were—you guys were able to build the two 1,200-foot locks in the dry. So that is just an interesting thought that I had.

And, as you know, in WRDA we do have—we do challenge the Corps to—on a pilot project, anyway, to find some private-public partnerships, and try to develop that.

Again, thank you for coming in today. Thank you for the work that you do. And we are working together to enhance our global competitiveness and grow our economy and create jobs, and you have played a key role in that, so thank you very much. And this concludes our hearing today.

Ms. DARCY. Congressman? With one indulgence?

Mr. GIBBS. Yes.

Ms. DARCY. The congressman has returned, and he asked me a question that I didn't have the answer to, and I do now, so can I just tell you—

Mr. GIBBS. Go ahead.

Ms. DARCY. That the Chicago Sanitary and Ship Canal, O&M, once the barriers are completed, we estimate to be about \$15 million a year.

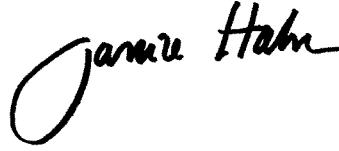
Mr. DAVIS. OK. Thank you very, very much. Thanks to both of you.

Mr. GIBBS. I was three short in my answer on that.

[Laughter.]

Mr. GIBBS. Thank you.

[Whereupon, at 12:23 p.m., the subcommittee was adjourned.]



Statement for the Record

Submitted to:

**U.S. House of Representatives Committee on Transportation and Infrastructure
Water Resources and Environment Subcommittee
April 2, 2014**

Hearing on:

**"The President's Fiscal Year 2015 Budget: Administration Priorities for the U.S. Army
Corps of Engineers"**

Chairman Gibbs, Ranking Member Bishop, and members of the Subcommittee: Thank you for the opportunity to submit this statement for the record in support of the maximum amount of funding possible for the Los Angeles County Drainage Area and the Compton Creek. The City of Compton is a city on the cusp of revitalization. The maintenance and enhancement of the Compton Creek and the surrounding watershed have been authorized activities of the U.S. Army Corps of Engineers (USACE) for many years, and are driving factors in this transformation. Your continued support of these vital federal priorities is needed more than ever, and is critical to the City's revitalization.

The Compton Creek is a major tributary of the Los Angeles River, the last major tributary to enter the river before draining into the Pacific Ocean. The Creek is 8.5 miles long, and drains a 42.1 square mile sub-watershed. The majority of the Creek is housed within a concrete flood control channel.

The proper maintenance of and improvements to the Compton Creek remain a top priority for this Committee and the residents of Compton. The City of Compton and Los Angeles County, in partnership with several stakeholder organizations and residents, have engaged in efforts to revitalize the Creek for many years. In April 2013, Compton officials held a community clean-up for the Compton Creek and Bike Trail. Another stakeholder organization, *Friends of the Los Angeles River*, already has planned a clean-up day for the Lower Compton Creek in May 2014. Calls for an Ecosystem Restoration Study to be conducted on the Compton Creek Watershed have been made by the Los Angeles County Flood Control District since at least 2009.¹

Ensuring the ecological health and vitality of the Creek is critical to promoting greater utilization of the Creek Watershed area by businesses and local residents, thereby adding to the significant revitalization taking place in and around Compton. Maximizing the USACE funding levels for key water resource projects, such as the Compton Creek and the Los Angeles County Drainage Area is vital to the preservation of community ecosystems.

¹ The Los Angeles Sentinel, June 11, 2009:
http://www.lasentinel.net/index.php?option=com_content&view=article&id=5942:ridley-thomas-takes-steps-to-implement-compton-creek-ecosystem-restoration-study&catid=83&Itemid=173

I encourage the continuation of discussions with the Office of the Mayor to ensure that this federal priority is addressed in accordance with the needs of the Compton community. In addition, I ask that USACE provide follow-up information on plans for FY 2014, FY 2015, FY 2016 and beyond.

If you need additional information on the critical role of the Compton Creek in the economic, social, and environmental life of the City of Compton, please contact Mayor Aja Brown, Office of the Mayor, City of Compton by phone at (310) 605-5597 or by email at ContactMayor@comptoncity.org.

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DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

THE HONORABLE JO-ELLEN DARCY

ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE

THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT

UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE FISCAL YEAR 2015 BUDGET

FOR THE ARMY CIVIL WORKS PROGRAM

APRIL 2, 2014

Mr. Chairman and distinguished members of the Subcommittee, thank you for the opportunity to present the President's Budget for the Civil Works program of the Army Corps of Engineers for Fiscal Year (FY) 2015

OVERVIEW

The FY 2015 Budget for the Civil Works program reflects the Administration's priorities through targeted investments to develop, manage, and restore water resources. Commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration are the primary mission areas of the Army Civil Works program. The Budget also supports related efforts at existing projects owned or operated by the Corps (hydropower, recreation, environmental stewardship, and water supply storage); as well as emergency preparedness and training to respond to natural disasters, the regulatory program, and the restoration of certain sites contaminated as a result of the nation's early efforts to develop atomic weapons. These investments will contribute to a stronger economy, improve reliability of waterborne transportation, reduce flood risks to businesses and homes, increase public safety, protect and restore aquatic ecosystems affected by water resources development, and support American jobs.

The primary objectives of the Budget are as follows:

- Focus funding on water resources investments that will yield high economic and environmental returns or address a significant risk to public safety, including investing in restoring significant aquatic ecosystems to help promote their ecological sustainability and resilience.
- Support commercial navigation through investments in maintenance and related activities at the most heavily used coastal ports and inland waterways in the Nation.
- Increase the organizational efficiency and improve the management, oversight, and performance of ongoing programs.

FY 2015 DISCRETIONARY FUNDING LEVEL

The Budget for FY 2015 for the Civil Works program provides a fiscally prudent and sound level of Federal investment in the Nation's water resources.

In keeping with the Administration's commitment to continue to invest in those efforts that are a priority for the Nation, while putting the country on a sustainable fiscal path, the Budget includes \$4.561 billion in gross discretionary appropriations for the Army Civil Works program offset by a \$28 million cancellation of unobligated carry-in to FY 2015, including funds previously earmarked for particular programs, projects, or activities.

This gross funding level represents the amount of new Federal discretionary resources that would be available to the Civil Works program.

Within the \$4.561 billion recommended appropriations, \$1.125 billion is for projects in the Construction account, and \$2.6 billion is for activities funded in the Operation and Maintenance account. The Budget also includes \$80 million for Investigations; \$245 million for Mississippi River and Tributaries; \$28 million for Flood Control and Coastal Emergencies; \$200 million for the Regulatory Program; \$100 million for the Formerly Utilized Sites Remedial Action Program; \$178 million for the Expenses account; and \$5 million for the Office of the Assistant Secretary of the Army for Civil Works. Attachment 1 shows this funding by account and program area.

A total of nine construction projects (three navigation projects, four flood risk management projects, and two aquatic ecosystem restoration projects), 28 studies, and 6 designs are funded to completion in the Budget. Completed construction projects will result in immediate benefits to the Nation and directly impact many local communities as benefits are realized from the combined Federal and non-Federal investments.

BUDGET CRITERIA

The FY 2015 Budget continues the Army's commitment to a performance-based approach to budgeting to provide the best overall return for the Nation in achieving economic, environmental, and public safety objectives. Competing investment opportunities for studies, design, construction, and operation and maintenance were evaluated using objective performance metrics, which guided the allocation of funds.

Within the Investigations account, deciding which studies to pursue can be a challenge. The Corps must use its professional judgment in these situations. Generally, funding is allocated to those studies that appear the most promising based on the potential for high economic, environmental, and safety returns to the Nation; and have an active local sponsor. Under the SMART Planning initiative, to be eligible for funding the Corps (the District, Division, and Headquarters) must also have reached agreement with the local sponsor on the scope, cost, and schedule of the study. This improvement to the planning process is helping to bring studies to a conclusion sooner and with less money without compromising the quality of the analyses.

NEW INVESTMENTS IN FY 2015

The Civil Works budget includes \$10 million to start construction of a nationally significant aquatic ecosystem restoration effort, the Louisiana Coastal Area Ecosystem Restoration program. This program, authorized in the Water Resources Development Act of 2007, is needed to restore habitat while reducing the risk of damage to coastal Louisiana from storm driven waves and tides, and complements the ongoing Federal effort under the Coastal Wetlands Planning, Protection, and Restoration Act. The

Administration is committed to restoration of the Gulf Coast, and starting construction on this program serves as an important step in fulfilling that commitment.

The Budget also includes funding for ten new study starts in the Investigations account. Two of these studies support efforts to encourage States and communities to assume responsibility for the development, management, restoration, and protection of water resources. Those studies focus on the disposition of locks that are no longer being used for commercial navigation, or have very little commercial navigation; these studies are the Allegheny River Disposition study in Pennsylvania and the Kentucky River Locks 1-4 Disposition in Kentucky.

Three additional studies are focused on deep draft navigation improvements - Manatee Harbor, Florida; New Haven Harbor Deepening, Connecticut; and San Juan Harbor Navigation Improvements, Puerto Rico. The principal criterion used to select these studies was the anticipated economic return to the Nation.

Three studies are focused on flood risk management - Du Page River, Illinois; Fairfield and New Haven Counties, Connecticut; and Short Creek and Wheeling Creek, Ohio. The principal criteria used to select these studies were the population affected, the condition of the flood damage reduction measures that currently exist, and the potential consequence of a flood event.

One new aquatic ecosystem restoration study—Salton Sea Restoration, California—will examine the potential for a project of environmental improvements to the Salton Sea.

Finally, the Budget again includes funding for the Water Resources Priorities Study. This study would assess the Nation's vulnerability to inland and coastal flooding; compare the flood risks faced by different regions of the United States; evaluate the effectiveness of current approaches to reducing these risks in different settings at the Federal, state, and local levels; and develop recommendations to improve existing programs to save lives, and reduce flood losses and associated recovery costs nationwide, in ways that will also promote the long-term sustainability of communities and ecosystems. In short, it would improve our understanding of why flood costs are increasing so dramatically and identify better ways for the Nation to address these risks. This is not being proposed as a study leading to a new project, and thus should not be subject to any potential limitation on new starts. Rather, this study will build on, and broaden, progress being made by the Corps in its North Atlantic Coast Comprehensive Study under the Disaster Relief Appropriations Act of 2013, P.L. 112-3, and is a logical next step to that effort.

NAVIGATION

The Budget includes \$1.825 billion in support of global and domestic waterborne transportation, with emphasis on the coastal ports and inland waterways that support the greatest national economic activity.

The Cleveland Harbor (Dike Raise), Ohio; New York and New Jersey Harbor, New York & New Jersey; and Texas City Channel (50-Foot Project), Texas Dredged Material Placement Facility projects are all funded to completion in FY 2015.

At a funding level of \$915 million, the Budget provides, for the third consecutive year, the highest amount ever proposed in a President's Budget for work financed from the Harbor Maintenance Trust Fund to maintain coastal channels and for related work. The FY 2015 Budget includes \$595 million for the operation and maintenance of inland waterways.

Overall, the total number of lock closures due to mechanical failures at main chamber locks on the high and moderate commercial use inland waterways has decreased, in both FY 2012 and FY 2013.

For the operation and maintenance of navigation projects with a low level of commercial use (coastal and inland combined), the Budget provides \$113 million. Starting in 2012, the Corps modified the levels of service for certain inland waterways locks. This has resulted in reduced operating costs and the Corps is using these savings for work on these waterways or other inland waterways.

The Budget continues to include funding in both the Investigations and Construction accounts on proposals to deepen and widen channels at several of our coastal ports to accommodate post-Panamax vessels with deeper drafts. Within the Investigations account, funding is included to complete feasibility studies for Charleston Harbor, South Carolina and Wilmington Harbor, North Carolina; continue design efforts at Boston Harbor, Massachusetts, Savannah Harbor, Georgia, and Freeport Harbor, Texas; and to complete design efforts at Jacksonville Harbor, Florida. Within the Construction account, funding is included to continue construction of a new dredged material placement facility at Charleston Harbor, North Carolina.

The Budget includes \$160 million for Olmsted Lock and Dam, Illinois, of which \$80 million would be derived from the Inland Waterways Trust Fund. The Budget does not support a reduction in the portion of the costs of this project financed from this trust fund. The Budget also includes \$9 million for ongoing work to address dam safety issues at Locks and Dams 2, 3, 4, Monongahela River, Pennsylvania, of which \$4.5 million would be derived from the Inland Waterways Trust Fund.

The Budget funds capital investments in the inland waterways based on the estimated revenues to the Inland Waterways Trust Fund under current law. However, the Budget also assumes enactment of the legislative proposal submitted to the Joint Select Committee on Deficit Reduction in 2011, which would reform the laws governing the Inland Waterways Trust Fund, including an annual per vessel fee to increase the amount paid by commercial navigation users of the inland waterways sufficiently to meet their 50 percent share of the capital investments that the Army Corps of Engineers incurs on their behalf. The revenue from this user fee would supplement the revenue from the existing excise tax on liquids used as fuel in commercial transportation on the inland waterways.

The Administration's proposal would generate an estimated \$1.1 billion in additional revenue over 10 years from the commercial users of these inland waterways. This amount reflects estimates of future capital investment for navigation on these waterways over the next decade, including an estimate adopted by the Inland Waterways Users Board (Users Board). The proposal is needed to ensure that the revenue paid by commercial navigation users is sufficient to meet their share of the costs of capital investments on the inland waterways, which would enable a significant increase in funding for such investments in the future.

Under the Administration's proposal, the Corps would be able to structure the user fee in two tiers. Nearly all of the capital investment by the Corps to support commercial navigation on these waterways involves work at Corps locks and dams. Under a two-tiered fee system, those who use the locks and dams would pay more of the non-Federal share of capital investments, as they should. This would increase economic efficiency by requiring the specific users who benefit from these investments to internalize the costs. The Administration's proposal also includes other needed changes, which would clarify the scope of cost-sharing for inland waterways capital investment, and the authority for appropriating funds from the IWTF and from the General Fund to finance inland waterways costs; and would close an existing loophole under which traffic on roughly 1,000 miles of the inland waterways does not now pay the fuel tax.

FLOOD RISK MANAGEMENT

Through both structural and non-structural measures, the flood risk management program serves as a vehicle to reduce the risk to safety and property from riverine and coastal flooding.

The FY 2015 Budget provides \$1.3 billion for the flood risk management program, which includes \$325.7 million for construction of dam safety projects, \$34 million for the assessment of existing dam safety projects, development of dam safety modification reports, and preconstruction engineering and design for existing dam safety projects, and \$38 million to continue the levee safety initiative, which involves an assessment of the conditions of Federal levees.

Between 10 percent and 15 percent of the levees in the Nation are maintained by the Corps, or are maintained by others and inspected by the Corps. The FY 2015 Budget includes funds for periodic inspections, levee screenings, and risk characterization by the Corps of these levees. The most prevalent deficiencies that the Corps has found to date have mostly been related to vegetation, encroachments, and culverts. Where the levee is a local responsibility, the Corps will suggest both structural and non-structural risk reduction measures that the local authority can take to improve the condition of its levee and manage its flood risk.

The Budget also includes \$2 million under the National Flood Risk Management Program to support the continued development of interagency teams known as Silver Jackets to provide unified Federal assistance in implementing flood risk management solutions. Silver Jackets teams have now been established in 41 States.

The Dover Dam, Muskingum River, Ohio and Muddy River, Massachusetts projects are both funded to completion in the FY 2015 Budget.

AQUATIC ECOSYSTEM RESTORATION

The FY 2015 Budget reflects a continuing effort by the Administration to have a coordinated approach to restoring significant aquatic ecosystems. The Corps has been working collaboratively with other Federal resource agencies on this effort. Attachment 2 provides a list of these ecosystems and the associated funding in the FY 2015 Budget for the Civil Works program.

The Budget for the Army Civil Works program provides \$74.9 million for the ongoing South Florida Ecosystem Restoration Program, which includes the Everglades, consisting of \$65.6 million in the Construction account and \$9 million in the Operation and Maintenance account. The Budget includes \$29 million in Construction and \$500,000 in Investigations to continue efforts to combat the threat of Asian Carp and other aquatic invasive species in the Great Lakes region. Approximately \$1.5 million of FY 2014 funds are projected to be carried into FY 2015, which will be used in conjunction with the budgeted funds to further the Great Lakes Mississippi River Interbasin Study efforts.

The Budget includes \$71 million for the Columbia River Fish Mitigation program in order to meet requirements laid out in the Columbia River Biological Opinion and to meet commitments made under the Columbia River Basin Fish Accords. The Budget includes statutory language to increase the authorized program limits for the Lower Columbia River Ecosystem Restoration, Oregon and Washington construction program and for the research efforts on the Lower Columbia River, which have both been relied upon to meet requirements laid out in the Columbia River Biological Opinion.

In addition, the Budget includes funds to initiate two new phase feasibility studies on the Russian River in California in order to address requirements laid out in the 2008 Russian River Biological Opinion. These feasibility studies will serve as the follow-up to the reconnaissance study that was initiated in FY 2014. The Corps anticipates that the operational requirements and the likely alternatives needed to address problems in the study area will be specific to each facility, warranting separate feasibility studies. It has been common practice for the Corps to use one reconnaissance study to determine if there is a Federal interest in addressing the same water resource challenge in the same geographic area with the same project sponsor, before moving to separate feasibility studies.

The Budget also provides \$48.8 million for ongoing work under the Missouri River Fish and Wildlife Recovery program, including funds to award construction of the Yellowstone Intake Dam Diversion project.

RESILIENCE TO A CHANGING CLIMATE

The Budget supports continued progress on very important investments that will yield long-term returns for the Nation. For example, the Corps of Engineers continues its active role in climate change adaptation. Through the Administration's proposed Opportunity, Growth, and Security Initiative, the Corps would be able to further its efforts to increase the resilience of water resources infrastructure to a changing climate. This would include investments in small flood risk reduction projects, with the focus on nonstructural and/or natural approaches to risk reduction. It would also provide technical assistance to non-Federal, State, and local agencies to assist and enable their development and implementation of nonstructural actions to reduce risks; and an interagency study by Corps and the Bureau of Reclamation to develop more resilient approaches to Federal development and management of water resources infrastructure to support project planning.

SUSTAINABILITY AND ENERGY

We have redoubled our efforts to leverage third party financing to achieve Administration, Energy Policy Act (EPA 2005), and Energy Independence and Security Act (EISA 2007) energy efficiency and renewable energy goals while reducing the demand on appropriated funds. By leveraging investments made since January 1999 in USACE hydropower infrastructure, we are now solidly "GREEN" on the federal renewable energy goal (7.5 percent of total agency electricity in FY 2013). We achieved a new high in renewable energy use in FY 2013: 12.1 percent of our electricity consumption in FY 2013 was provided by renewable resources, the majority of which (78 percent) we generated on-site in our hydropower dams.

REGULATORY PROGRAM

The Budget includes \$200 million for the Regulatory Program, which is the level provided in the enacted appropriations for FY 2014, to enable the Corps to continue to protect high-value aquatic resources, enable more timely business planning decisions via a transparent and timely permit review process, and support sustainable economic development.

VETERANS CURATION PROJECT

In continued support of the President's Veterans Job Corps, the FY 2015 Budget includes \$4.5 million to continue the Veterans Curation Project, which provides vocational rehabilitation and innovative training for wounded and disabled veterans, while achieving historical preservation responsibilities for archaeological collections administered by the Corps. The project supports work by veterans at curation laboratories located in August, Georgia; St. Louis, Missouri; and the Washington, D.C. area.

CONCLUSION

In summary, the President's FY 2015 Budget for the Army Civil Works program is a performance-based budget that supports an appropriate level of Federal funding for continued progress, with emphasis on those water resources investments that will yield high economic, environmental, and safety returns for the Nation and its citizens.

These investments will contribute to a stronger economy, support waterborne transportation, reduce flood risks to businesses and homes, restore important ecosystems, provide low-cost renewable hydropower, and deliver other benefits to the American people.

Mr. Chairman and Members of the Subcommittee, I look forward to working with this Subcommittee in support of the President's Budget. Thank you.



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

APR 24 2014

Honorable Eddie Bernice Johnson
United States House of Representatives
2468 Rayburn Building
Washington, D.C. 20515

Dear Representative Johnson:

This is in response to your letter dated April 2, 2014 regarding water supply storage at reservoir facilities operated by the Army Corps of Engineers (Corps). You asked four questions which are answered below.

- **What is the Corps of Engineers doing to work with local and state governments to ensure the multi-purpose reservoirs it operates and maintains that include Municipal and Industrial (M&I) water supply storage are being operated and maintained to efficiently manage the waters stored, especially during this period of long term drought?**

The Corps has an active support role when the Nation faces drought. For each reservoir, the Corps has a water control plan devised to guide effective operations for meeting the Congressionally-authorized project purposes, including a drought contingency plan. During a drought, the Corps cooperates with the local and State agencies in an attempt to find innovative solutions that may increase water storage. Oftentimes the Corps processes temporary deviations from typical reservoir operations in response to drought conditions. For example, two such deviations were recently granted in Southern California in response to the current drought. These deviations apply to site-specific, current conditions and requests for modification and do not constitute permanent changes to the water control plan. Flexibility in operations is subject to the limitations of project authorities and federal law, environmental compliance, dam safety considerations, and associated flood risk management issues. Corps offices have been actively participating on drought coordination teams in affected regions of the country throughout this period of drought.

- **Looking just at the Corps of Engineers' multi-purpose reservoirs west of the Mississippi River, there is more than 1.4 million acre-feet of M&I water supply storage that has not been activated. Can you provide me with a listing of projects, with the information on the state, congressional district, the amount of storage, estimated population this storage could serve, and the estimated date for when this storage will be activated?**

In 2012, the Corps published its most recent inventory of all M&I water supply contracts and storage, including inactivated storage: "2011 M & I Water Supply Database" (USACE Institute for Water Resources, 2012). This publication can be found online at:

<http://www.iwr.usace.army.mil/Portals/70/docs/iwrreports/2012-R-02.pdf>

For the 135 Corps reservoirs that have M&I water supply storage, the database includes storage space, user, contract data (size, date, cost, etc.), State, and other information.



Please note that this database does not link directly to Congressional District or to potential population served, as requested in your question. I will have my staff compile and prepare the specific information you have requested and provide it to you in a separate letter no later than May 30, 2014.

Also, the Corps does not have dates for anticipated activation – activation is dependent on State and Local authorities requesting activation and paying for the storage space, among other conditions of contracts for storage, pursuant to statutory authority, e.g., the Water Supply Act of 1958.

- **As a measure to enhance the ability of these reservoirs to meet the M&I water supply needs of the western U.S., are there any issues as to why this storage has not been activated to meet the nation's M&I water supply needs?**

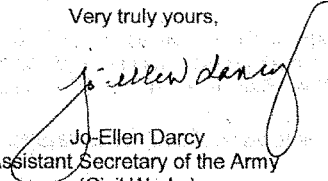
Initiatives to activate storage are the responsibility of State and Local entities. States and non-Federal entities have the primary responsibility in the development and management of their water supplies including the financial responsibility of providing supplies to users.

- **Are there any actions within the Corps of Engineers existing authorities that could be done to enhance the amount of M&I water supply made available at reservoirs operated and maintained by the Corps of Engineers?**

Yes. The Corps can and will continue to be active in making existing storage more efficient for storing and managing water under drought conditions, as noted in my response to your first question. The Corps can also undertake storage efficiency measures in our operations and maintenance to address conditions in storage reservoirs such as leakage, unintentional spilling, and sedimentation, subject to funding availability and priority. Although not directly related to the amount of water supply at Corps reservoirs, the Corps can assist states in addressing their water supply needs through the Planning Assistance to States program (Section 22 of the Water Resources Development Act of 1974). Requests to activate existing storage, to reallocate storage to M&I from other purposes, or to contract for use of surplus water (where available) can be considered by the Corps at the initiative of State and local sponsors. Finally, the Army is reviewing its water supply policies and considering rulemaking to clarify and improve its implementation of existing authorities.

Thank you for your interest in the Army Civil Works Program.

Very truly yours,


Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

DEPARTMENT OF THE ARMY CORPS OF ENGINEERS

COMPLETE STATEMENT OF

LIEUTENANT GENERAL THOMAS P. BOSTICK
CHIEF OF ENGINEERS

BEFORE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT
UNITED STATES HOUSE OF REPRESENTATIVES

ON

THE PRESIDENT'S FISCAL YEAR 2015 BUDGET:
ADMINISTRATION PRIORITIES FOR
THE U.S. ARMY CORPS OF ENGINEERS

APRIL 2, 2014

Mr. Chairman and Members of the Subcommittee:

I am honored to be testifying before your committee today, along with the Assistant Secretary of the Army for Civil Works, the Honorable Jo-Ellen Darcy, on the President's Fiscal Year 2015 (FY 2015) Budget for the Civil Works Program of the United States Army Corps of Engineers (Corps).

This is my second time before this Subcommittee and I continue to look forward to working with you. I have been in Command of the Corps for nearly two years, and I want to touch briefly on the four Campaign Goals for the U.S. Army Corps of Engineers (Corps) that are now in place.

First, **Support the Warfighter** - we continue working in more than 130 countries, using our Civil Works, Military Missions, and Water Resources Research and Development expertise to support Combatant Commanders. We often find ourselves at the apex of Defense, Diplomacy, and Development with our work. As such, the Corps supports the National Security of the United States. Also within this goal, we are focused on sustainability and energy as well as our support to the interagency partners such as the Department of State, the Veterans Administration, the Department of Energy and others.

Second, **Transform Civil Works** - I've had the opportunity to speak with many stakeholder groups and elected officials about our Nation's approach to water resources and the condition of its existing water resources infrastructure. The four elements of our Civil Works transformation strategy will help us address some of these issues and make us more efficient and effective. Those elements are: Modernize the project planning process; Enhance the budget development process through a systems-oriented approach and collaboration; Evaluate the current inventory of projects and the portfolio of proposed water resources projects through an infrastructure strategy to identify priorities and develop better solutions to water resources problems; and Improve methods of delivery to produce and deliver sound decisions, products, and services that will improve the ways in which we manage and use our water resources.

Third, we must **Reduce Disaster Risks** and continue to respond to natural disasters under the National Response Framework as well as our ongoing efforts with flood risk management. The Sandy recovery work is progressing on schedule. More than 200 projects, from Florida to Maine and into Ohio, were adversely impacted by the storm. In 2013 the Corps successfully repaired many projects and returned approximately 15 million cubic yards of sand to affected beaches. In 2014 the Corps is on track to remediate the remaining Sandy impacted projects that involve a constructed beach. We expect to place approximately 50 million cubic yards of sand on these projects. The study team has been working with over 100 Regional Partners on the Comprehensive Study. The framework developed in this study looks at vulnerabilities across a large coastline and identifies measures that could be used to mitigate for future risk, based on the characteristics of each reach and patterns of land use. It will include a full range of possible risk reduction strategies (structural, non-structural, and nature-based features).

The study will provide regional partners with methods that they can adjust to meet their needs/values within their specific communities.

Fourth, **Prepare for Tomorrow** – This is about our People – ensuring we have a pipeline of Science, Technology, Engineering and Mathematics workers, as well as Workforce Development and Talent Management. We are also focused on Research and Development efforts that will help solve some of the toughest challenges facing the Army and the Nation. One great example is the Sandy Sea Level Rise Tool first developed for use in our post-Sandy recovery efforts; the interagency team that developed this tool won the President's Green Government award last fall. The calculator is now being used to analyze other vulnerable areas across the Nation. We're reviewing our internal operations and processes to ensure that in a time of fiscal uncertainty and challenge, the Army Corps of Engineers is postured for future success. Lastly, we want to help our Wounded Warriors and Soldiers transitioning out of active duty to find fulfilling careers. I am proud that last year we had 140 Operation Warfighter interns in the Corps and assisted 120 Wounded Warriors in obtaining civilian jobs!

My statement covers the following 10 topics:

- Summary of FY 2015 Budget
- Investigations Program
- Construction Program
- Operation and Maintenance Program
- Reimbursable Program
- Planning Program Modernization
- Efficiency and Effectiveness of Corps Operations
- Emergency Management
- Research and Development
- National Defense

SUMMARY OF FY 2015 BUDGET

The FY 2015 Civil Works Budget is a performance-based budget, which reflects a focus on the work that will provide the highest net economic and environmental returns on the Nation's investment or address significant risks to safety. These investments support waterborne transportation, reduce the risk of flooding to businesses and homes, restore significant aquatic ecosystems, improve the resiliency and safety of existing water resources infrastructure, provide low-cost renewable hydropower, and support American jobs.

The Budget focuses on high performing projects and programs within the three main water resources missions of the Corps: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The FY 2015 Budget includes \$4.561 billion in gross discretionary funding—offset in part by a proposal to cancel \$28 million in prior appropriated funds—to fund Civil Works activities, including work on more than 400 flood and storm damage reduction projects, 192 coastal navigation projects, and 193 sites with navigation locks.

The Budget will also enable the Corps to process approximately 90,000 permit requests while protecting our Nation's waters and wetlands; operate 75 hydropower plants with 353 generating units that annually produce about 20,000 megawatts, providing 24 percent of the nation's hydropower capability and 3 percent of the total electric capability; and sustain our preparedness to respond to natural disasters.

INVESTIGATIONS PROGRAM

The FY 2015 Budget provides \$80 million in the Investigations account, and \$10 million in the Mississippi River and Tributaries account to fund projects and activities that will enable the Corps to evaluate and design projects that are the most likely to be high-performing within the Corps three main mission areas. The FY 2015 Budget includes funds to complete 34 feasibility-level studies, and Preconstruction, Engineering, and Design work on six proposed projects.

CONSTRUCTION PROGRAM

The goal of the construction program is to produce as much value as possible for the Nation from the available funds. The Budget provides \$1.125 billion for the Construction account, and \$84 million in the Mississippi River and Tributaries account, to further this objective and gives priority to the projects with the greatest net economic and environmental returns per dollar invested, as well as to projects that address a significant risk to safety. The Budget funds construction on 68 projects, including one high-priority construction new start (Louisiana Coastal Area Ecosystem Restoration, LA). In keeping with our Civil Works transformation strategy, the Budget allocates construction funding among projects to allow us to complete projects and deliver their benefits to the Nation sooner. The 68 construction projects consist of: 31 Flood Risk Management projects; 16 Commercial Navigation projects; 18 Aquatic Ecosystem Restoration projects; 1 Hydropower project; and 2 Water Supply projects. The FY 2015 Budget funds to completion 9 construction projects.

The Corps uses objective performance measures to establish priorities among projects. These include benefit-to-cost ratios for projects that are being funded primarily due to their economic outputs and cost-effectiveness for the restoration of significant aquatic ecosystems. The selection process also gives priority to dam safety assurance, seepage control, and static instability correction projects and to projects that address a significant risk to safety.

OPERATION AND MAINTENANCE PROGRAM

All structures age over time with a potential decline in reliability. With proper maintenance and periodic rehabilitation, we can extend for many years the effective lifetime of most of the facilities owned or operated by, or on behalf of, the Corps. As stewards of this infrastructure, we are working to ensure that its key features continue to

provide an appropriate level of service to the American people. In some cases, this is proving to be a challenge.

The Budget provides \$2.6 billion for the Operation and Maintenance (O&M) account, and \$153 million under the Mississippi River and Tributaries account with a focus on the operation and maintenance of key commercial navigation, flood and storm damage reduction, hydropower, and other facilities. The Budget gives priority to those coastal ports and inland waterways with the most commercial traffic, and increases the total amount to be spent from the Harbor Maintenance Trust Fund to a level that is higher than in any previous Budgets. The Budget also funds small harbors that support significant commercial fishing, subsistence, or public transportation benefits. The Budget provides operation and maintenance funding for safety improvements at Federal dams and levees based on the risk and consequence of a failure.

Generally, the O&M program supports completed works owned or operated by the Corps, including administrative buildings and laboratories. Work to be accomplished includes: operation of the locks and dams along the inland waterways; dredging of inland and coastal federal channels; operating multiple purpose dams and reservoirs for flood control, hydropower, recreation, and related purposes; maintenance and repair of the facilities; monitoring of completed coastal projects; and general management of Corps facilities and the land associated with these purposes.

The FY 2015 Budget provides \$209 million in Operation and Maintenance for hydropower activities to maintain basic power components such as generators, turbines, transformers and circuit breakers at Corps hydropower facilities to keep them operating efficiently and effectively.

REIMBURSABLE PROGRAM

Through the Interagency and Intergovernmental Services Reimbursable Program, the Civil Works program helps other Federal agencies, state, local, and tribal governments, and other countries with timely, cost-effective implementation of their programs. These agencies can turn to the Corps of Engineers, which already has these capabilities, rather than develop their own internal workforce to oversee project design and construction. Such intergovernmental cooperation is effective for agencies and the taxpayer by using the skills and talents that we bring to our Civil Works and Military Missions programs. The work is principally technical oversight and management of engineering, environmental, and construction contracts performed by private sector firms, and is financed by the agencies we service. We only accept agency requests that we can execute without impacting our missions that are consistent with our core technical expertise and that are in the National interest.

PLANNING PROGRAM MODERNIZATION

Planning modernization includes a transformation of how the Corps of Engineers Planning Program manages its portfolio of studies. In the past three fiscal years, to

better manage its study portfolio, the Corps has significantly reduced the active study portfolio from 650 to under 200 studies, a 60% decrease, which enables us to focus available funding on the studies that are most likely to identify solutions with high economic or environmental returns to the Nation or that address significant safety risk.

To better deliver studies, the Corps has embraced a new planning process referred to as "SMART Planning" (Specific, Measurable, Attainable, Risk-informed, and Timely). SMART Planning is risk-informed, decision focused planning that utilizes a 6-step planning process, which emphasizes the scoping of our analyses based on what is necessary for decisions. This approach aims to reduce resource requirements—both time and money—by appropriately focusing on the key drivers in resolving problems while complying with all applicable laws.

The Corps is fully committed to this initiative, while improving the quality of the analyses that are needed to inform our cost-sharing partners, the public comment process, and project decisions. The goal under SMART planning is to complete most feasibility studies within 3 years for \$3 million or less. However, some of our studies will take longer or cost more, particularly where the proposal is costly, complex, or controversial. The end product is a decision that has considered the full range of alternatives, is based on an in depth evaluation of all the relevant factors, and has been fully coordinated by three vertical levels of the organization (Corps Headquarters, the Corps Division, and the Corps District) from study inception to completion.

EFFICIENCY AND EFFECTIVENESS OF CORPS OPERATIONS

The Corps strives to continually improve the efficiency and effectiveness of its investigations, construction, and operation and maintenance programs. In FY 2015, the Corps will further expand the implementation of a modern asset management program, dedicating an increased amount of its Operation and Maintenance funding to the key features of its infrastructure and for work that will reduce long-term O&M costs in real terms, while implementing an energy sustainability program and pursuing efficiencies in the acquisition and operation of its information technology.

EMERGENCY MANAGEMENT

The FY 2015 Budget provides \$28 million in the Flood Control and Coastal Emergencies account to prepare for emergency operations in response to natural disasters as well as \$2 million in the Investigations account for the Corps participation in the development and expansion of interagency teams, known as Silver Jackets, which collaboratively reduce the risks associated with flooding and other natural hazards. The Corps Emergency Management Program also includes \$4.5 million in the National Emergency Preparedness Program to ensure that the Corps continues to be prepared to respond to man-made disasters such as acts of terrorism, while assuring continuity of organizational operations.

RESEARCH AND DEVELOPMENT

Civil Works Program research and development provides the Nation with innovative engineering products, some of which can have applications in both civil and military infrastructure spheres. By creating products that improve the efficiency of the Nation's engineering and construction industry and providing more cost-effective ways to operate and maintain public infrastructure, Civil Works program research and development contributes to the national economy.

NATIONAL DEFENSE

We often find ourselves at the apex of Defense, Diplomacy, and Development with our work. As such, the Corps supports the National Security of the United States. The Corps is supporting U.S. Foreign Policy and the President's initiative of Rebalancing to Asia, which includes the ramp up of resources and activities to support the Host Nation Program in Japan and Korea. Projects include relocation of runways/infrastructure; construction of airfield operations, housing, installation, and support facilities in Japan; and movement of much of the US Forces in Korea further south into Camp Humphreys.

The Corps is supporting fellow Federal agencies with work for the State Department, the Department of Veterans Affairs, Department of Energy, USAID, and many more. In Afghanistan we have completed \$9.3 billion of work and have another \$1.5 billion in construction to complete, for a total Afghanistan program for the Corps of \$10.8 billion. We are focused on completing as many of the remaining projects as possible by the end of the 2014 calendar year. However, after December 31, 2014, we expect to have approximately 45 projects left to complete. The final project (Dahla Dam Phase II) is scheduled for completion in 2017.

We are proud to serve this great Nation and our fellow citizens, and we are proud of the work the Corps does to support America's foreign policy, particularly with our ongoing missions in Afghanistan and Iraq. Men and Women civilian employees of the Corps from across the Nation – all volunteers; and many of them have served on multiple deployments – continue to provide critical support to our military missions there and humanitarian support to the citizens of those nations.

CONCLUSION

The FY2015 Budget represents a continuing, fiscally prudent investment in the Nation's water resources infrastructure and restoration of its aquatic ecosystems. The U.S. Army Corps of Engineers is committed to a performance-based Civil Works Program, based on innovative, resilient, sustainable, risk-informed solutions.

Thank you, Mr. Chairman and Members of Subcommittee. This concludes my statement. I look forward to answering questions you or other Members of the Subcommittee may have.

ALAN L. LANDES, President
 CHARLES L. GRECO, Senior Vice President
 MARK KNIGHT, Vice President
 ERIC L. WILSON, Treasurer
 STEPHEN E. SANDHERR, Chief Executive Officer
 DAVID LUKENS, Chief Operating Officer

AGC of America
 THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
 Quality People. Quality Projects.



April 1, 2014

Chairman Bob Gibbs
 House Subcommittee on Water
 Resources & Environment
 2165 Rayburn House Office Building
 Washington, D.C. 20515

Ranking Member Tim Bishop
 House Subcommittee on Water
 Resources & Environment
 2163 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairman Gibbs and Ranking Member Bishop,

On behalf of the Associated General Contractors of America (AGC), I thank you for holding a critical hearing on the president's FY 2015 budget request for the U.S. Army Corps of Engineers (USACE) Civil Works Program. During this hearing, we hope you will address the president's proposed, draconian cuts to Civil Works accounts, the need to complete the Water Resources Reform and Development Act of 2013 (WRRDA) and the administration's proposed rule to clarify the Clean Water Act's definition of "waters of the U.S."

President Obama's FY 2015 budget requests cuts the USACE's Civil Works accounts by nearly \$1 billion compared to FY 2014 enacted levels at a time when much of the nation's water resources infrastructure has exceeded its design life, is not adequately prepared for natural disasters or is simply under-maintained. While many studies reflect the price to be paid *if* these outdated, under-maintained structures fail,¹ the reality *is* that many of these structures have already failed. For example, in the last few years:

- Chunks of concrete have fallen from early 1900s-built locks and dams in Pennsylvania.²
- A lock gate fell off its hinges at a 50-year-old lock in Ohio and took five months to repair.³
- Water treatment facilities in New York and New Jersey released millions of gallons of raw and partly raw sewage into waterways as a result of damage from Hurricane Sandy.⁴
- An 1890s-built, 280-foot wall above the Lockport Lock and Dam in Illinois collapsed. We have included a link to the YouTube video of that collapse below.⁵
- Three Great Lakes commercial ports closed as a result of a lack of maintenance dredging.⁶

¹ See, e.g., http://www.unitedsoybean.org/wp-content/uploads/2013/07/Americas_Locks_And_Dams.pdf; <http://www.asce.org/failuretoact/>; and <http://www.iwr.usace.army.mil/11library/1WR1library/ValueToTheNationBrochure.aspx>

² <http://www.post-gazette.com/business/businessnews/2012/03/18/Locked-and-Dammed-The-region-s-23-locks-and-dams-are-on-the-brink-of-failure/stories/201203180269>

³ <http://www.startribune.com/business/193446011.html>

⁴ <http://www.nytimes.com/2012/11/30/nyregion/sewage-flows-after-hurricane-sandy-exposing-flaws-in-system.html?pagewanted=all>

⁵ <https://www.youtube.com/watch?v=1Gk80H1-ef0>

⁶ <http://www.wpr.org/waiting-dredging-great-lakes-ports-close-water-drops>

- A 1923-built New Orleans lock was closed for emergency repairs costing the oil, gas, and chemical industries up to \$1 million a day.⁷

This is not an exhaustive list, but merely a small sample of the host of water resources infrastructure failures throughout the nation caused by insufficient investment to maintain existing facilities. Based on the facts above, AGC strongly urges you to oppose these senseless and irresponsible cuts at a time when such investment is clearly necessary.

Congress, and this subcommittee in particular, has a tremendous opportunity to impact this fiscal year's appropriation process by completing work on the WRRDA conference report. Last year, both the House and Senate overwhelmingly passed WRRDA bills that would authorize funding for sorely-needed construction projects, help reduce the time and cost to begin construction on USACE projects, increase investment in harbor maintenance dredging and allow for a public-private partnership pilot program to help leverage government funding. AGC strongly urges you to not miss the tremendous opportunity to complete the legislative process and pass a WRRDA conference bill now.

Lastly, the U.S. Environmental Protection Agency (EPA) and USACE recently proposed a new rule clarifying the definition of "waters of the U.S." and which bodies of water fall under federal jurisdiction. AGC continues to review the proposed rule. However, at this juncture, the proposed rule appears substantially similar to a leaked version of the proposed rule, which AGC believes is a massive—and unnecessary—expansion of Clean Water Act jurisdiction. Ditches, ephemeral and intermittent streams, tributaries, and isolated waters located in a floodplain or riparian area are all now potentially jurisdictional. As such, AGC urges you to oppose such an unnecessary rule that would cause irreparable and considerable delay to construction projects that already face dozens of duplicative and time-consuming regulatory and bureaucratic hurdles.

Both the president and Congress have the power to prepare for natural disasters and to properly maintain and replace outdated water resources infrastructure through authorizing a robust WRRDA bill, annually appropriating such funds and responsibly regulating. As such, AGC urges members of the subcommittee and their colleagues to quickly complete work on the WRRDA conference report, to ensure appropriations levels are enacted well above the president's request, and to prevent executive branch overreach through the regulation process on the definition of "waters of the U.S."

Thank you for considering these issues during this critical hearing.

Sincerely,



Jeffrey D. Shoaf
Senior Executive Director
Government Affairs

⁷ http://www.nola.com/business/index.ssf/2014/01/ships_delayed_as_repairs_conti.html

**TESTIMONY OF
JESSE THOMPSON, CHAIRMAN
NAVAJO COUNTY BOARD OF SUPERVISORS**

BEFORE

**THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT**

ON

**THE FISCAL YEAR 2015 BUDGET
FOR THE ARMY CIVIL WORKS PROGRAM**

APRIL 25, 2014

Introduction

Navajo County, Arizona thanks this Committee for the opportunity to present testimony for the record of the April 2, 2014 hearing about the President's FY15 Army Corps of Engineers Budget.

Because the Army Corps of Engineers (ACE) is the only federal agency that directly provides infrastructure assistance to local sponsors, its financial resources to conduct flood control projects directly impact our own. We are tremendously grateful to ACE for including in its FY15 Budget the funds we need to complete the Little Colorado River at Winslow Levee Feasibility Study (LCR) by August 2015.

An esteemed Member of this Committee, Congresswoman Ann Kirkpatrick, toured the Winslow Levee to ascertain its full spectrum of flood risks, which includes flood water inundation of every health care and public safety facility in Winslow, and overtopping the BNSF railroad tracks that carry all east-west freight cargo into and out of the Port of Los Angeles. We are deeply grateful for Congresswoman Kirkpatrick's support.

Our project seeks not only to protect commonly understood public safety and economic interests that ACE routinely measures, but also to protect a federal interest so uniquely profound that ACE cannot fully score it. The LCR will protect Navajo and Hopi families-federal trustees - whom barely a generation ago Congress forcibly relocated from their reservations to Winslow's 100 year flood zone.

Navajo County, Arizona agrees with this Committee that it is essential for the public safety and economic vitality of our country that Army Corps of Engineers be funded to its full capability.

It has been illuminating for us, as a local sponsor responsible for 50 per cent of the cost of an ACE investigation, to discover that one of our biggest challenges every year is to

help our federal partner find its matching federal funds. Nevertheless, ACE's SMART Planning Initiative is helping us bring our study in on task, on time, and on budget. We thank Assistant Secretary Jo-Ellen Darcy for her commitment to an ACE planning revolution that is making possible what once seemed impossible.

Background

Why Does Winslow Need ACE?

Winslow is a town the railroad built in the 19th century. It continues in the 21st century to be a strategic transcontinental transportation hub traversed by a critical rail corridor and Interstate 40, as well as Route 66. It is the largest town in Navajo County - larger even than our county seat.

The meandering Little Colorado River is a deep and narrow channel to the east and north of downtown Winslow. Unlike rivers in the midwest or east coast, the Little Colorado River is subject to flash flooding due to tropical storm remnants, winter rains, and summer monsoons. In the twentieth century, the Little Colorado River had five significant flood events, including two floods even after the Winslow Levee was built.

The last flood, in 1993, overtopped a 345 foot long section of Winslow Levee, inundating 204 parcels and 140 structures. 900 people had to be evacuated for up to 3 days. Fifty homes were flooded up to 4 feet deep. Navajo County, with the assistance of ACE, worked 24 hour shifts to repair the breach.

In 2003, Navajo County discovered Winslow Levee piping failure caused by desiccation cracks, root channels, rodent burrows, structural flaws or a combination of all of these factors. In 2008, the Federal Emergency Management Agency (FEMA) decertified the Winslow Levee, putting residents, commercial districts, four schools, a hospital, wastewater treatment facility, all emergency responders, and the Burlington Northern Santa Fe (BNSF) rail road tracks into a 100 year floodplain. 2,700 total properties are effected.

Residents and business owners in Winslow are now annually hit with the twin financial blows of flood insurance costs and the significantly higher construction costs that result from flood zone building code requirements. The only way to relieve the community of these burdens is for FEMA to re-certify the levee, which requires ACE engineering to construct permanent solutions.

Why Has Navajo County Partnered with ACE?

The Winslow levee is a 7.2 mile flood control structure problem that Navajo County needs ACE's expertise to solve. The complex hydrology of the Little Colorado River, including its sandy bottom and meandering riverbed, coupled with the County's 2003 discovery of levee piping failures, compelled the County to reach out to the best flood mitigation experts in the country, who are located at ACE. The cost share between the

local sponsor and ACE make this project economically feasible. The total cost of the LCR Feasibility Study is \$5.7 million, which is shared equally by ACE and Navajo County. Moving forward to construction, the federal government's investment in this project will make local investment possible.

Why Is Our Partnership with ACE in the Federal Interest?

It may be hard for this Committee to believe that a small town like Winslow, Arizona, with a population of 9,655, is essential to our nation's economic vitality, but the freight corridors of this nation's infrastructure thread through Winslow like the eye of a needle:

BNSF

One double stacked train every twelve minutes, 120 double stacked trains every day, 43,800 double stacked trains every year ride through Winslow on the transcontinental double track mainline route that runs from Chicago, Illinois to Los Angeles, California. There is no other rail route to divert BNSF trains west of Albuquerque. If Winslow's tracks flood, then delays of 4,800 double stacked containers filled with east bound merchandise and west bound commodities would significantly harm our nation's economy. Moreover, BNSF's \$500 million Southern California International Gateway project to improve the competitiveness, and accommodate forecasted growth, at the Ports of Los Angeles and Long Beach could be futile if the Winslow Levee is not improved.

Interstate 40

Interstate 40 is the largest east-west interstate in the U.S, carrying 16,000 vehicles through Winslow per day. 7,040 of those vehicles, or 44%, are commercial trucks. Additionally, Winslow's strategic location as the crossroads of northern Arizona would cause "without project" risk of delaying all goods and services carried on Interstate 40 and three state highways that run through Winslow's 100 year flood plain.

Beyond national economic interest, the federal government has direct financial investment in three of Winslow's community assets:

La Posada

Hailed an architectural masterpiece, La Posada is a national treasure. Opened in 1929, it is the last great railroad hotel built in America. Unfortunately, its steady decline from the 1960's through the 1990's almost destroyed it. A \$1,000,000 Transportation Enhancement Grant from the U.S. Department of Transportation stabilized the property and made its resurrection possible.

Winslow Indian Health Care Center

This Indian Health Service facility is a regional medical center for American Indians throughout northern Arizona. It is built, maintained and operated with federal funds. A new \$15.5 million addition is nearly complete to provide enhanced care to 60,000 American Indians within its service area.

Route 66

The City of Winslow is completing the final phase of the \$10 million Winslow Renaissance Project that is the centerpiece of the National Park Service's Route 66 Historic Transportation Route Project. It is a model for Route 66 community revitalization.

Perhaps most importantly, the Winslow Levee seeks to protect the only community within a 100 year flood plain that Congress has a statutory responsibility for, and trust obligation to protect:

American Indian Trustees

The Navajo-Hopi Land Settlement Act of 1974 (Public Law 93-53, as amended) and the Navajo and Hopi Indian Relocation Amendments Act of 1980 (Public Law 96-305) mandated that tens of thousands of Navajos and Hopis relocate from their traditional homes on their reservations to new locations the federal government determined, including Winslow, Arizona. As of January 31, 2014, 563 people, or 131 households, have been relocated into Winslow. The federal government spends roughly \$139,748 for each family it relocates. Relocation into Winslow has cost the federal government approximately \$18,306,988.

Conclusion

If ACE was adequately funded, then the LCR would have more timely received the funding ACE needs for its federal share. The need for more timely federal funds has been the number one risk to this project. By putting our flood control project at risk, federal funding problems put the interests we seek to protect at risk.

This Committee's passage of the Water Resources Development Act (WRDA) this year compounds that injury. If ACE's Los Angeles District had received adequate funding to meet its annual capabilities for the LCR, then LCR would probably have a Chief's Report before this Committee. The LCR Feasibility Study received \$500K in FY14 and an additional \$751K from the President's Budget for FY15. We now have the complete federal funding share and thanks to the heroic efforts of our ACE partners in the Los Angeles District and Phoenix office, led by Colonel Kimberly Colloton, we will have our Chief's Report before you by next August. We look forward to respectfully returning to this Committee to request inclusion in the next WRDA.